

Training & Reference Guide

Kentucky Pretrial Services



Revised March 2019

WARNING: Do not use the *Foundational Framework to PRIM* and the *PRIM Technical Guide* located under the reports tab in PRIM. These documents are dated and do not contain current information.

HISTORY AND OVERVIEW OF PRETRIAL SERVICES

Kentucky Pretrial Services is a statewide department within the Administrative Office of the Courts (AOC). The AOC is part of the Kentucky Court of Justice (COJ), which is the Judicial Branch of state government and operates under the authority of the Supreme Court. Unlike most states, Kentucky has a unified court system, meaning that all courts are state courts and operate under the same administrative rules. Kentucky does not have county, city or municipal courts. Kentucky Pretrial Services operates in all 120 counties and provides services seven days a week and 24 hours a day.

Kentucky Pretrial Services was created in 1976 as part of the Bail Bond Reform Act when commercial bail bonding for profit was abolished in Kentucky. Kentucky was the second state to abolish commercial bail bonding and remains only one of four nationwide. “In order to ensure that defendants lodged in Kentucky’s jails did not languish without an opportunity for release, the statewide Pretrial Services Agency was created. This was the first statewide pretrial services agency and the first to offer services to rural areas.” (Kentucky Pretrial Services Agency Guide circa 1978-1980)

The Pretrial Services program operates under the premise, supported by federal and state constitutions, that defendants are presumed innocent until proven guilty and are entitled to reasonable bail. Defendants are entitled to the least restrictive release terms possible, depending on whether they are likely to appear in court and whether they present a risk to public safety. As a defendant’s case makes its way through Kentucky courts, Pretrial Officers strive to perform an essential service in a fair, neutral and effective manner.

As a Pretrial officer it is important to be able to distinguish the difference of “bond” and “bail”. The legal definition of bail is, “the process of releasing a defendant from jail or other governmental custody with conditions set to reasonably assure public safety and court appearance. ¹” The legal definition of bond is “A written promise to pay money or do some act if certain circumstances occur or a certain time elapses²” Simply put, a bond is a binding contract with the court and bail is an agreement with the court.

¹ Pretrial Justice Institute, Section on Info Stop—Glossary of Terms, *Bail*, <http://www.pretrial.org/glossary-terms/>, last visited May 3, 2016

² Blacks Law Dictionary (10th ed 2014) Bond

“**You** should be proud of your selection to work in Kentucky’s Pretrial Services Agency. **You**, the Pretrial Officer, being the defendant’s initial contact with the court system, have the serious responsibility of setting the tone of fairness for the entire court system.” (Kentucky Pretrial Services Agency Guide circa 1978-1980.

Introduction

Scope of the job

As officers of the court, with duties mandated by statute and Supreme Court rules, Pretrial Officers occupy a very important role in the court system. Because Pretrial Officers are available seven days a week and essentially twenty-four hours a day, Pretrial Officers may often be asked to venture outside the scope of the job. However, staff must keep in mind that required duties must be fulfilled completely and effectively. Such duties do not allow time to perform functions that should be completed by other departments or agencies.

Specifically:

- KRS 524.130 prohibits non-attorneys from the practice of law; therefore, Pretrial Officers shall not provide legal advice. The unlawful practice of law is a class B misdemeanor. Under no circumstances should Pretrial Officers speculate regarding the likelihood of release from custody or other practices of the court.
- Kentucky Court of Justice policies prohibit officers of the court from making referrals to specific attorneys and or specific vendors (drug testing, treatment, etc.).
- Court of Justice Personnel Policies, Section 2, requires all staff to maintain and promote public confidence in the judicial system. Providing opinions as to how a judge will rule violates this requirement.

Part of a Pretrial Officer’s responsibility is to report pending cases and to report outstanding warrants. Pretrial Services works with the court regarding the release of an individual, providing supervision to assure the defendant remains compliant during the period of release, and assuring

the defendant appears for all required court dates. To be effective, Pretrial Officers must understand and believe in the philosophy, mission, and core values of Pretrial Services. Effective Officers are able to maintain neutrality and objectivity and uphold the legal principle of

presumption of innocence. As officers of the court, Pretrial Officers must be cognizant that the presumption of innocence is applicable even if other agencies or departments hold differing views.

Some defendants will want to discuss their current charges. Other than informing the defendant what the current charges are, Pretrial Officers cannot discuss the circumstances surrounding the arrest. Problems with arrest or detention procedures should be referred to the proper authorities.

This guide provides a comprehensive introduction to the processes, policies, procedures and philosophy of Kentucky Pretrial Services. It is designed to serve not only as a guide for training but also as a valuable reference for Pretrial Officers.

Updates to this guide are made regularly and can be accessed through SharePoint. The “search” feature can be used to find key words to assist in locating a topic. To use the search feature, click “edit” on the top tool bar of the PDF document then select “find”. For a shortcut to the search box, press and hold the control ‘ctrl’ and ‘f’ keys.

It is not practical to maintain a printed copy of the training guide since updates are made frequently. However, if staff chooses to maintain a printed copy of the guide, updates from PRIM should be printed and exchanged for the outdated pages.

Throughout the training guide, references are made to the local Office Procedure Manual (OPM). This is a guide to local variances in procedures that are program specific. It is important to reference the local OPM when indicated in the training guide for program specific instructions.

Training Expectations & Accountability

Training will be provided to all pretrial officers by their supervisors utilizing all available resources. This will include but is not limited to a training checklist, online resources, and printed materials and field training.

PRETRIAL SERVICES’ STRATEGIC FRAMEWORK

1. MISSION STATEMENT

Pretrial Services supports the premise of the presumption of innocence, and to further pretrial justice, advocates for equitable release practices for all.

2. CORE VALUES

Pretrial Services is committed to:

- ▶ achieving *excellence* through *professionalism*, *teamwork* and *accountability*
- ▶ promoting fairness and *impartiality* with *respect* for the rights of all
- ▶ providing *leadership* through *responsiveness* to the needs of the court and community

Professionalism
Responsiveness
Excellence
Teamwork
Respect
Impartiality
Accountability
Leadership

3. VISION STATEMENT

Pretrial Justice. Fair and impartial treatment for all.

4. DEPARTMENT PRIORITIES

Providing accurate information to the Court

- ▶ Training and professional development
- ▶ Daily quality assurance conducted by supervisors

Accountability, transparency, credibility

- ▶ Movement towards evidence-based practices through quantitative and qualitative research
- ▶ Use of performance-based measures
- ▶ Fiscal responsibility
- ▶ Effective use of resources
- ▶ Maintaining accurate data (training)

Meeting constitutional, statutory and court ordered responsibilities

- ▶ Training and education
- ▶ Time management/effective use of resources
- ▶ Customer service

Utilization of evidence-based practices and performance measures

KRS 27A.097 states that evidence-based practices “means intervention programs and supervision policies, procedures, programs, and practices that scientific research demonstrates reduce instances of a defendant’s failure to appear in court and criminal activity among pretrial defendants when implemented competently.” Pretrial Services has used, and continues to use, a validated, research-based risk assessment. Pretrial Services continues to prove effectiveness through performance measures and has developed both process and outcome measurements.

As a Pretrial Officer in an ever-changing criminal justice environment, motivational interviewing, evidence-based practices and performance measures are terms to become very familiar with in order to be the most effective Pretrial Officer possible.

Motivational interviewing is a style and method of communication used to help people overcome their ambivalence regarding behavior changes. Research strongly suggests that motivational interviewing techniques, rather than persuasion tactics, effectively enhance motivation for initiating and maintaining behavior changes. ¹

Motivational interviewing has been proven effective in producing intended outcomes in community corrections and many other non-criminal justice related fields. Motivational interviewing in pretrial services is a helpful technique when attempting to enhance motivation for compliance with conditions, court appearance, and a reduction in danger to the community. Care should be taken by staff to ensure motivational interviewing techniques are used in such a way that the pretrial legal principles, specifically the presumption of innocence and the right against self-incrimination, are honored. A motivational interviewing training curriculum may need to be modified to ensure compliance with the pretrial legal foundation. ²

KRS 27A.097 mandates that programs providing supervision and intervention for adult criminal defendants utilize evidence-based practices (EBP). It also requires the Kentucky Supreme Court to measure the effectiveness of supervision programs. Performance and outcome measures are

¹ “Legal and evidence-based practices: Application of Legal Principles, Laws, and Research to the Field of Pretrial Services,” April 2007, Authored by Marie VanNostrand, Ph.D. Luminosity, Inc. for the Crime and Justice Institute and the National Institute of Corrections. ² Ibid.

² <http://www.pretrial.org/download/performance-measures/Measuring%20What%20Matters.pdf>

reported to the Supreme Court, legislators, judges, and other important stakeholders and are used to demonstrate program effectiveness. The statute also links funding to the use of EBP.

Two of the most important outcome measures for Pretrial Services are appearance and public safety rates. Appearance rate is defined as the percentage of defendants who appear in court and public safety rate is defined as the percentage of defendants who are not charged with a new crime while on pretrial release.² In order to measure the validity of the Pretrial Risk Assessment and the effectiveness of supervision strategies (supervision through MCR), accurate appearance and public safety information must be collected, maintained, and reported to both internal and external stakeholders. Because commercial bail bonding is illegal in Kentucky, Pretrial Services is the responsible party for all persons arrested and released pretrial. Maintaining accurate information on both appearance and public safety rates is required for all types of releases, including both financial and nonfinancial releases.

In order to accurately report performance and outcome measures, proper documentation into PRIM, the statewide central server-based application used by all Pretrial Officers in the collection, assessment, and supervision of defendant information is vital. All aspects of the pretrial process, as well as outcome measurement data, must be entered and maintained. PRIM is the official record for all pretrial information; therefore, guide files/SharePoint files need not be maintained except for purposes of maintaining supporting documents of compliance.

Conflicts

Guide for Pretrial Officers to Determine when to Report a Non-professional Relationship

The *Pretrial Employee Disclosure of a Non-Professional Relationship and/or Association with a Defendant to be Interviewed or Supervision Client* form should be completed once staff has identified an interview/investigation that must be conducted, or supervision performed, with someone with whom they are related, have a relationship, or have had a previous relationship. The disclosure will help protect staff from allegations that some defendants receive favorable treatment because of unknown relationships with Pretrial Officers.

Staff should never conduct an interview/investigation, update data in PRIM or provide supervision to an immediate family member (defined as a parent, sibling, spouse or child) or anyone that staff may be involved with romantically. In these cases, the staff member should contact their immediate supervisor. The supervisor will then coordinate a replacement staff member to conduct the interview. If there is no one available within the program, the supervisor should seek assistance with the knowledge and help of a regional supervisor.

Staff may also decline conducting interviews/investigations, updating data in PRIM or providing supervision to individuals outside the defined relationships previously stated if they feel that, based on the relationship, they cannot be neutral in presenting information to the court or if they believe interviewing/investigating the individual would be awkward to them or the defendant. This could include relatives outside of immediate family and close friends.

Staff should also avoid interviewing/investigating, updating data in PRIM, or providing supervision for any defendant that presents a conflict based on an interaction a Pretrial Officer may have had with that particular defendant. These interactions could include a Pretrial Officer as a victim of a crime with which the defendant has been charged, as a witness of a crime with which the defendant has been charged or any other court actions that may include civil proceedings that could call into question the neutrality of the Pretrial Officer. In these cases, Pretrial Officers must contact supervisors immediately for a replacement officer for the interview.

Staff may interview/investigate, enter/update data in PRIM, or supervise anyone outside immediate family and romantically involved relationships if staff feels comfortable doing so and are confident that they can provide the court with accurate, unbiased information concerning the individual.

Disclosure forms, once completed, should be filed in the Pretrial Office and destroyed per the two year retention schedule.

Completion of the Disclosure Form

- Employee's Name: *Name of Pretrial Staff reporting the non-professional relationship*
- Defendant/Supervision Client Name: *Name of defendant*
- Please describe the circumstances in which you know this individual (please include any relative dates). *Include information that details the relation or relationship to the defendant and any pertinent information needed to substantiate the relation or relationship*
- Date Supervisor was contacted: ☐ by phone ☐ in person: *Contact must be made with immediate supervisor immediately. Indicate if the contact was made by phone or in person and the date of the contact.*
- Comments by Supervisor: *If contact with supervisor is made by phone, document comments in this area. If the supervisor has determined that the interview can be completed in an unbiased manner, document in this area. If the supervisor has determined that other staff should conduct the interview, document in this area.*
- Signature of Supervisor: *A supervisor's signature must be obtained. If contact is made by phone, have the supervisor sign the form as soon as possible, preferably, the next business day. This is the employee's responsibility.*

- Date: *Provide the date on which the form was signed by the supervisor.*

If in doubt, a disclosure form should be completed.

Defendants requiring an interview

1. Defendants to interview:

The following defendants must be interviewed when placed in a detention facility:

- Any adult defendant charged with a bailable offense involving city, county, or state offenses. (See RCr 4.02 and Ky. Constitution Section 16)
- Any adult defendant charged with a third or subsequent Alcohol Intoxication (See KRS 222.203).
- Any adult defendant who is allegedly AWOL from the Kentucky National Guard. For defendants charged with being AWOL from the Kentucky National Guard, the commander of the defendant's unit will have signed the warrant of arrest and shall be contacted for bail decisions.
- If local procedures require, adult defendants charged with a probation violation (this may not be applicable in all jurisdictions; refer to local Operations Procedures Guide, OPM, for instruction).
- Any 16 or 17-year-old juvenile defendant who has been charged with any traffic related offense.
- Any juvenile defendant charged as a youthful offender.
- Any adult defendant charged with Nonsupport or Flagrant Nonsupport regardless of case status (Family, Circuit, and District Courts). Consult Pretrial Services Local OPM or ask the immediate supervisor for further guidance.
- Any defendant charged with Failure to Appear Contempt of Court
- Contempt of Court charges ordinarily stem from alleged violations of a court order. KRS 432.280. Examples are: nonpayment of fines, failure to pay restitution, failure to abide by a court order such as attending treatment, education, etc.
- For nonpayment of fines, refer to local Operations Procedure Guide (OPM) for instruction.
- Indirect criminal contempt is committed outside the presence of the court and requires a hearing and the presentation of evidence to establish a violation of the court's order. It may be punished only by proceedings that satisfy due process." *Commonwealth v. Burge*, 947 S.W.2d 805, 808 (Ky. 1996).
- Direct contempt of court charges are not bailable offenses. The most common example is outbursts in the courtroom. It is the decision of the local judge on

whether or not these defendants are to be interviewed. “[D]irect contempt is committed in the presence of the court and is an affront to the dignity of the court. It may be punished summarily by the court, and requires no fact-finding function, as all the elements of the offense are matters within the personal knowledge of the court.” *Commonwealth v. Burge*, 947 S.W.2d 805, 808 (Ky. 1996).

2. Defendants not requiring an interview:

The following defendants do not have to be interviewed by Pretrial Services: ○

Defendants lodged *only* on federal offenses. ○ Defendants lodged *only* on mental inquest warrants/orders. ○ Defendants lodged *only* on parole violations.

○ Defendants lodged *only* to serve time.

○ Defendants lodged *only* on a charge of first or second Alcohol Intoxication or Drinking in Public Place KRS 222.202. ○ Defendants lodged *only* on a charge of being AWOL from the United States Armed Forces. ○ Defendants who have been *convicted of and sentenced for* direct or indirect contempt of court after adjudication by a judge. KRS 432.270.

○ Bond surrender. Refer to local procedures.

3. Question as to whether to interview:

If there is any question about whether a defendant is to be interviewed, Pretrial Officers must err on the side of caution and interview the defendant.

4. Courtesy calls to other programs:

If a defendant from another county is being held in your jail on cases typically not interviewed for, as a courtesy, let the other program know about the defendant so that a transport order can be prepared.

Location of Pretrial Investigations

Typically, pretrial investigations are conducted in a detention facility, however; there are exceptions. Sometimes defendants are arrested and taken to a hospital or are held at other locations such as police department. Juveniles charged with traffic offenses may be held in juvenile facilities. Pretrial Officers are required to interview defendants wherever they may be.

Posted Bond Prior to Interview

For those defendants that are released prior to interview, a copy of the pink AOC-365 shall be secured from the jail or circuit clerk’s office. Not all defendants may be released at the jail, so it

is imperative that local procedures are in place to secure all pink copies of the AOC-365 (pink sheets) from both the jail and the circuit clerk's office. The information contained on the pink copy of the AOC-365 shall be documented in PRIM (see technical guide).

Uniform Warrant Process

Staff shall check the "to be presented" search in PRIM for their charge counties at the beginning of their shift, end of their shift, as well as throughout the day.

The following process is mandatory in order to avoid 24-hour rule violations:

- First priority on shift is for staff to check for out of county defendants.
- Staff shall gather all charging documents for the out of county defendants. All information shall be entered into PRIM immediately.
- Prior to contact with the defendant contact the pretrial program in the charge county. Consult SharePoint for on duty pretrial officer. SharePoint will have contact numbers and preferred method of contact for staff.
- If there is no answer consult SharePoint to find contact information for the supervisor and make contact. If unable to make contact with the supervisor after one hour, but before a 24-hour violation will occur, then contact the on-call regional supervisor (consult SharePoint for on-call calendar).
- Staff shall document in PRIM the method of contact, the name of the pretrial officer, date and time of contact, and document response from pretrial officer. If no confirmation is received, further attempts shall be made.
- Once confirmation is received, there shall be a clear understanding of responsibilities for both holding and charge county pretrial officers.
- Failure to follow the above process will result in disciplinary action.

Ewarrant Protocol

- 1.) E-warrants must be checked at least twice per shift with a minimum of three hours between searches and results must be printed and verified for as long as local protocol states. Before entering anyone located in e-warrants into PRIM you must verify which detention center is detaining them.
- 2.) Search by COURT tab. Several searches must be completed that includes district, circuit and family courts by county. Communication between counties is imperative.
- 3.) If a warrant is served in a State Facility, enter it into PRIM with charge County and holding

County as your own. Once bail is set, dispose by “transfer to secure facility”.

- 4.) If a warrant is served outside of Kentucky, process defendant once they are booked into your detention center.

Entering citation information as it is written

Charges must be entered as indicated on the citation not based on any subsequent Pretrial Services investigation. For example, if the citation charges the defendant with a first offense of driving under the influence (DUI 1st), and after conducting a criminal record check, staff realize that the defendant has a recent conviction for DUI; therefore, the appropriate charge is DUI 2nd. Pretrial Services does not have the authority to make this change. In such a situation, regardless of the possibility that the listed charge may be incorrect, the charge as listed in the citation must be

entered (in this example DUI 1st should be entered.) However, Pretrial Services is obligated to inform the judge of the findings and should document this in the memo. (Continuing the example: inform the judge that the defendant is currently charged with committing DUI 1st but that the defendant does have a prior conviction for DUI and provide the date of conviction). The only agencies with the authority to amend the charge are law enforcement agencies or the prosecutor. If the prosecutor or arresting officer amends the charge and this is reflected on the court docket, edit the information in PRIM.

The following are exceptions to the rule that staff are to enter the offense charged on the citation. The following codes should never be entered as charges in PRIM:

<u>Code</u>	<u>Description</u>
29000	Serving warrant for another county
or 29040	These are obsolete codes
39990	Serving probation and parole violation warrant
29060	Serving warrant for court
29061	Attempting/serving warrant for court
29062	Solicitation/serving warrant for court

29063 Conspiracy/serving warrant for court

29064 Facilitation/serving warrant for court

29065 Complicity/serving warrant for court

If these UOR codes are used on the citation, refer to the arrest warrant or CourtNet and enter the UOR code for that specific charge.

Added Charges

When a defendant is in custody and receives additional charges follow the below procedures:

- If the original charges are still pending and active in PRIM, edit the original file and add the new charges.
- If the original charges have been disposed and the defendant is still in custody create a new file.
- Present the defendant's added charge for a bail decision within 24 hours of obtaining the citation from the jail.

When a defendant is in custody and receives a warrant for the same case that they are being held on follow the below procedures:

- If the defendant was previously released on the case and is still being held on other charges, then edit the file and add the case again.
- If the defendant was not released on the case do not add the case again, but present to the judge and add the new bond. Document the specific details in the memo for the new charge(s) on an existing case.

Use the arrest date and time from the citation as the booking date and time when entering the added charges into PRIM.

Criminal History

A thorough investigation of criminal history records is required to accurately apply the risk assessment. This includes investigating each case in CourtNet and following up on cases found in NCIC without dispositions, particularly if the risk assessment is affected.

Case Number – The first 2 digits indicate the year; followed by a letter or letters that indicate the court division. T, M and F cases are in District Court; CR cases are in Circuit Court. The case number refers to the case, not the charge, i.e. a case with an F case number may originally include a felony charge but may also include traffic and misdemeanor charges. An F in the case number does not automatically mean there is a felony charge (there may have been one originally, however, it may have been dismissed or amended to a misdemeanor).

- **T:** traffic offenses, which could include violations, misdemeanors and/or felonies
- **M:** misdemeanors and/or criminal violations
- **F:** felony charges, misdemeanors and/or criminal violations (can include traffic offenses)
- **CR:** felony charge(s) that has progressed to Circuit Court (can also include misdemeanors and/or violations that are part of the same transaction or occurrence)
- **Trailer numbers:** Cases from Circuit Criminal, Domestic Violence, and Juvenile

Courts may have a trailer number with an additional 3 digits (for example, 09CR00123-001). On Circuit Criminal cases (CR cases), this number identifies the number of multiple codefendants. On Domestic Violence cases (D cases), it indicates the number of actions pertaining to the same two parties. On Juvenile cases (J cases), it indicates the number of actions with that juvenile

- **CR v. F cases:** Felony cases normally begin in district court as an F case; however, once they are indicted or have proceeded to circuit court, the case number becomes a CR case. District court only has jurisdiction over a small number of procedures concerning felony cases and does not have jurisdiction to dispose of a felony case; only circuit court has jurisdiction over the disposition (guilty pleas, trials, amendments) of felony cases. If there appears to be a resolution to the felony charge in the F case number, the charge was either amended to a misdemeanor or violation offense or was dismissed. (If there is a conviction with an F case, the felony charge was amended in district court.)

Other case numbers: Case numbers from non-criminal courts may contain the following:

S = Small Claims

D = Domestic Violence

C = District Civil

CI = Circuit Civil and Family Court

P = Probate

H= Mental Health

J = Juvenile and Family Court.

Locating FTAs in CourtNet Records

When attempting to locate FTAs in CourtNet records, it is mandatory that each case is checked to determine if the case is a pretrial FTA or if an FTA is hidden within the case. This is done by clicking into each individual case in the CourtNet history. Individual cases may contain a super memo which should be opened to check for hidden FTAs. It is important to review charge date and disposition date in determining if an FTA is a pretrial FTA.

- **Contempt of court:** Failures to appear may show as a contempt of court charge on the CourtNet record with the same case number as the original charge(s). However, a contempt of court charge issued after the sentencing date is not a pretrial failure to appear. If uncertain, go into the case history in CourtNet and check the dates of when the failure to appear bench warrant was issued. If it was issued before sentencing, then it is a pretrial failure to appear.
- **Bail jumping:** Some failures to appear will show as bail jumping (bail jumping 1st degree is a failure to appear on a felony and bail jumping 2nd degree is failure to appear on a misdemeanor). There are rare instances where a bail jumping charge is used for persons who fail to show up to serve a sentence, and in these instances the charge would be issued after the disposition date.
- **Failure to Appear on a misdemeanor charge:** This FTA will have the same case number as the underlying charge and should have an issue date prior to the disposition date of the underlying charge.
- **Traffic violation with a disposition of FTA:** If FTA is the disposition in CourtNet, but there is no sentence or active bench warrant, this is still a pretrial failure to appear. The court notified the Department of Transportation, which suspended the driver's license until the case was resolved.
- **Active bench warrant:** If a case has an active bench warrant, the case does not yet have a disposition, and the bench warrant was issued on the same date as a court date (a scheduled event), this is a failure to appear.

- **Administrative procedure:** Cases may have a disposition of “Administrative Procedure” with an active bench warrant. This may or may not be a failure to appear. This may indicate a direct indictment, which is not a failure to appear. Check the court dates and scheduled events to see if the bench warrant was issued on a court date.
- **FTV:** A case with “FTV” (Fugitive) in the CourtNet memo section may be a failure to appear. To be an FTA, the date must be a date prior to the disposition date on the charge.
- **Fugitive from another state:** A “Fugitive from another state” charge on CourtNet indicates that the defendant has a felony warrant in another state, which may or may not be the result of a failure to appear. Do not count this as a failure to appear unless the records from the other state showing that it is a failure to appear have been obtained.
- **TIA:** In some limited jurisdictions, judges may try a defendant’s case in the defendant’s absence if a defendant fails to appear for court. When this occurs, the clerk may enter “TIA” in the memo section of KyCourts II. Check the disposition dates before assuming this meets the Pretrial Services definition of a failure to appear. It is also common for TIA (trial in absence) to be entered by the clerk when a defendant fails to pay a fine.
- **Recalled:** If the official court record indicates the FTA was recalled, contact the Pretrial Office in that county for information on how the clerks use this code locally.

When verifying Pretrial FTAs, pay specific attention to whether a summons was returned unserved, as this is an indication that the defendant’s failure to appear for court was not intentional.

Military Charges

- A Summary Court Martial does **not** constitute a conviction. There is no judge and the accused does not have the right to counsel.
- All Special Court Martials will be classified as misdemeanors.
- General Court Martials can be classified as follows:
 - Length of confinement 1 year and under=misdemeanor
 - Length of confinement over 1 year=felony

Note: **If the military charge would change their risk level to the next level, then the Pretrial Services Officer should inform the judge of the military charge and that it changed their risk level.**

NCIC

Terminology should be carefully evaluated for relevance to Kentucky charges (i.e. Battery). If the crime that the defendant is convicted of is defined as having a physical injury or threat of physical injury, then it would be counted as a violent crime conviction.

If active warrants are found notify local arresting agency.

Procedural training on this topic can be found in the learning management system (LMS).

Prohibitions

Pretrial Officers are not permitted to run records unless the individuals have a criminal case pending. The court may request information for specific reasons not covered by this policy. Notify the Central Office about the nature of these requests. Refer to CourtNet and NCIC user agreements for rules and guidelines governing usage.

Verifying Identity

Pretrial Officers have a statutory obligation to verify the identity of each defendant arrested on a bailable offense. Pretrial Officers must make every attempt to confirm the defendant's identity by using one or more of the following options:

- **NCIC:** Pretrial Officers should attempt to confirm a defendant's identity through the NCIC record first. The criminal history obtained through NCIC is fingerprint based. If a defendant has a criminal history in NCIC, a close examination of the record should be conducted to ensure it is the correct defendant. NCIC also includes other identifying information such as tattoos and scars.
- **DOT:** If the defendant does not have a criminal record in the NCIC database, Pretrial Officers should then utilize the Department of Transportation (DOT) record. When conducting a search of the defendant through DOT, Pretrial Officers will have access to the defendant's driving record as well as the picture which is displayed on the defendant's driver's license. The driver's license picture is not to be distributed. The driver's license picture is confidential and should only be viewed by the Pretrial Officer.

- **CourtNet:** If the defendant's identity could not be confirmed through the NCIC or DOT record, Pretrial Officers should review the CourtNet record. By going to the Case at a Glance Screen, the Pretrial Officer can select the most recent case to obtain identifying information such as DOB, SSN or DLN. In addition, address information may also be available.
- **Jail Booking Sheet:** In the event the identity of the defendant cannot be confirmed through the various criminal history reports, the booking sheet provided by the jail may be used. Confirm the information provided by the jail matches that of the defendant.
- **Citation:** In the event the identity of the defendant cannot be confirmed through the various criminal history reports and the local jail does not provide booking sheets, the arresting officer's citation may be used. Confirm the information provided on the citation matches that of the defendant.
- **Identity cannot be confirmed:** If the defendant's identity cannot be confirmed and is listed as Jane/John Doe, an interview must be created for the purpose of printing release decisions for the jail and the court. Choose on the permission to interview screen "unable to verify identity." Once identity has been confirmed, edit the file and change the interview status.

System Malfunctions

In the event any applications or systems fail, the following processes are in place:

1. PRIM

- If PRIM is down contact the helpdesk to determine if the issue is local or statewide.
- Conduct a guide interview and complete a guide risk assessment.
- Once PRIM is functioning, all data must be entered into PRIM within 24 hours.

2. NCIC/DOT/LINK

If NCIC is down contact the KSP helpdesk to determine if the issue is local or statewide.

- If local issue, contact another pretrial program to perform the NCIC record check, as this is required to complete the risk assessment.
- If a statewide issue and is not resolved within the 24-hour timeframe to present to the court, pretrial officer shall inform the court of the absence of the NCIC and present.

- Once NCIC is operational, the record checks must be completed and applied to the risk assessment. Any impact these records have on the risk assessment shall be provided to the court.

3. COURTNET

- If CourtNet is down contact the AOC helpdesk to determine if the issue is local or statewide.
- If a local issue, contact another pretrial program to perform the CourtNet record check, as this is required to complete the risk assessment.
- If a statewide issue and is not resolved within the 24-hour timeframe to present to the court, pretrial officer shall inform the court of the absence of the CourtNet record and present.

4. Risk Assessment Queue

If the queue is down, contact the Risk Assessment Coordinators for instructions.

Once CourtNet is operational, the record checks must be completed and applied to the risk assessment. Any impact these records have on the risk assessment shall be provided to the court.

Link Options

Use of the Five Link Options:

1. Arrested on a new offense while case is pending:

If the defendant has a pending misdemeanor or felony case, select this option.

The definition of a pending case, based on the risk assessment, is any felony or misdemeanor case in which a defendant has been released before trial, and final disposition has not yet occurred.

The case should be linked if the date of the alleged new offense occurred after the date of the pending case. PRIM will only allow a case to be linked to one other case. In instances of a defendant having multiple pending cases in PRIM, the 'arrested on new offense while case is pending' link option should be applied to the most recent pending case.

Direct indictments and criminal complaint warrants are two examples of when dates need to be closely reviewed. Any additional charges placed on a defendant while the defendant is still in custody would not meet the definition of arrested on a new offense while case is pending; unless the charge is an indictment for Bail Jumping or allegations of new criminal activity while in jail. Bail Jumping is an

allegation of new criminal activity and should be treated as a new offense. Bail Jumping should be linked as arrest on new offense with the no case found option selected (NOTE: some counties may have a deviation from this practice. Check local OPM for instruction).

Charge information is to be documented for all persons who were arrested and released pending trial regardless of whether they were interviewed by Pretrial Services. Even though a defendant may decline an interview/investigation or post bail prior to an interview, documentation reflecting that the defendant was arrested while a case was pending will still need to be entered into PRIM. This information can be found on the pink copy of the AOC-365 (pink sheets).

A close review of Courtnet is necessary on the following cases:

- Misdemeanor diversion: check CourtNet to see if a plea was entered. If a plea was entered, then it is considered a conviction. If no plea was entered, then the case is considered pending.
- Felony diversion and Drug Court: these cases require entry of a guilty plea and are not pending.
- Deferred Prosecution: these cases do not require a plea and are considered pending.
- Pending probation violation charges do not count as pending cases. Probation violations are post trial.

If a defendant gets arrested on warrant for Escape, create and new file and link as arrested on new offense if there are pending cases.

If a pending misdemeanor or felony case is found in CourtNet, contact the charge county. This is important for the following reasons:

- Defendant's arrest may lead to a missed court date.
- Defendant may be on supervision.
- Defendant may have violated conditions of release.

2. FTA (failure to appear):

It is essential that FTAs are reported accurately for defendants released from jail. FTA rates provide a fundamental measurable outcome for the Pretrial Services field. Agency effectiveness can be managed by examining failure to appear rates and the information is vital to the agency because it provides information to funding sources (i.e. legislators, state and federal grant agencies), judges and other important stakeholders.

For the FTA link, there could be multiple files in PRIM with the same case number. In these instances, the FTA should be linked to the most recent file. For example, someone has a case that originated in January but failed to appear. They were arrested in June. Since there would be only one file in PRIM, you would link to the original case from January. If the same defendant posts bond again on the same case and fails to appear again in July. When the defendant is arrested this time, the file would be linked to the most recent file from June and not the original file.

3. Indictment:

If a defendant has been arrested on an indictment warrant, select this option. If the indictment was based on the district court case that was held or waived to the Grand Jury, an existing file from the district court case will be in PRIM. Link the case.

If the defendant is still in custody unable to make bail on the district case, LINK circuit case to the district case.

In the case of a direct indictment from which there is no district case, LINK as “no case found.”

There could be times when a direct indictment, in and of itself, is a new offense while a case is pending. This would occur if the indictment is a direct indictment and there is a pending case showing on the record. The only time to use the link option “arrested on new offense while case is pending” on a direct indictment is when it is clear that the underlying criminal charges that led to the indictment happened after the pending case that is showing on the record. If this cannot be determined based on the information available, do not choose the link option “arrested on new offense while case is pending.”

A CR case will always be linked as an indictment if there is an existing F case.

4. Non-Compliance:

Enter the original charge, or if the defendant is actually charged with Contempt of Court, enter “contempt of court” with violation code 0026480. Examples of noncompliance include failure to pay restitution, failure to complete alcohol and drug education (ADE), failure to show proof of insurance, etc.

Note in memo what order the defendant is accused of violating, (i.e. the nature of the contempt charge) and the bail amount on the warrant.

5. Violations of Conditions of Release

Accurately documenting this information in PRIM provides a measurement of success or failure for the pretrial supervision program.

Results from the First Six Months of the Public Safety Assessment-CourtTM In Kentucky by the LJAF Laura and John Arnold Foundation, published July 2014.

On July 1, 2013, judges in all 120 counties in the Commonwealth of Kentucky began using the Public Safety Assessment – CourtTM (or PSA-CourtTM), a new data-driven risk assessment, to inform their decisions about which defendants can most safely be released from jail while they await trial, and which defendants should be detained because of the risks they pose to public safety. The first six months of results indicate that the PSA-Court is serving Kentucky well. Most importantly, they show that by using the risk assessment and applying their discretion, Kentucky judges have reduced crime, reduced jail populations, and led to a smarter, more effective use of criminal justice resources.

Kentucky has long been a leader in providing effective, research-based pretrial services – and, even prior to adopting the PSA-Court, the system was rightly seen as a national model. But since implementing the new risk assessment, Kentucky’s courts have achieved a truly remarkable result: They have been able to ***reduce crime by close to 15%*** among defendants on pretrial release, while at the same time increasing the percentage of defendants who are released before trial. In short, the PSA-Court has assisted judges in making decisions that both better protect the public ***and*** more effectively use the Commonwealth’s criminal justice resources.

The PSA-Court has proven to be highly accurate at identifying the small group of Kentucky defendants who are at an elevated risk of committing violence if released before trial. Indeed, defendants flagged by the PSA-Court as posing an increased risk of violence are, in fact,

rearrested for violent acts at a rate **17 times** that of defendants who are not flagged. In addition, the PSA-Court has been accurately evaluating the risk that a given defendant will commit a new crime or fail to come back to court if he is not detained.

The report below summarizes the first six months that the PSA-Court was used throughout Kentucky

(July – December 2013). The underlying analysis was conducted by a research team led by Dr. Marie VanNostrand and relied on data (supplied by Kentucky’s Administrative Office of the Courts) on the 56,866 defendants who were booked into jail and released during this period. Although the tool has been in effect for a year, many of the cases arising from January through June 2014 have not yet been resolved and, as such, they have not been included in this analysis. While we do not have sufficient outcome data to analyze the more recent cases, the results identified here continue to be seen in the data from January 2014 to the present.

System Impacts

As Noted above, Kentucky’s courts have used the PSA-Court to help identify low-risk defendants who pose little threat to public safety and are therefore suitable for pretrial release. In the first six months that the PSA-Court was used, Kentucky increased to 70% the proportion of defendants released pending trial, up from 68% during the previous four years.

What makes the increase in release rate notable is that it has not come at the expense of public safety; to the contrary, it has been achieved alongside a **decrease** in pretrial crime. Since implementation of the PSA-Court, and as compared to the four years prior to July 1, 2013, the new criminal activity rate has dropped significantly. The average arrest rate for released defendants has declined from 10% to 8.5%. This represents a **15% reduction in pretrial crime**. Moreover, while more defendants are now being released, Kentucky has not seen any increase in the rate at which defendants miss court. In short, Kentucky is now detaining more high-risk and potentially violent defendants, while more low risk defendants are being released. And crime is down.

In addition to the positive impacts on crime and pretrial incarceration, Pretrial Services has reported that the tool has allowed a more effective deployment of resources. In large part, this is because the PSA-Court can be completed without conducting a defendant interview. The streamlined assessment process permits Kentucky Pretrial Services to use its limited resources to mitigate risk through supervision and services. Moreover, although Kentucky statutes require brief defendant interviews, the overall time it takes to administer the risk assessment tool has decreased significantly; and Pretrial Services can now assess all defendants, not just those who consent to an interview and provide information that can be verified.

Predictive Validity

The PSA–Court is made up of nine risk factors that can be obtained from administrative data (e.g., criminal history and current charge). These factors are weighted and combined to evaluate the risk that if a defendant is released before trial, he will: (1) commit a violent crime; (2) commit any new crime; or (3) fail to appear for court. Data from the first six months of Kentucky’s use of the PSACourt demonstrate that the assessment is predicting all three risks with a high degree of accuracy.

New Violent Crime Activity

During the first six months of the PSA-Court implementation, a select group of judges pilot-tested the PSA- Court’s violence “flag,” which identifies a small group of defendants who are significantly more likely to commit an act of violence if released before trial. Indeed, flagged defendants – just 6% of individuals who were released – were 17 times more likely to be arrested for new violent criminal activity than defendants who were not flagged. All Kentucky judges began receiving this information on July 1, 2014, which could potentially help improve public safety even further.

New Criminal Activity and Failure to Appear

The new criminal activity (NCA) and failure to appear (FTA) scales classify a defendant’s risk from one to six, with one representing the lowest risk and six representing the highest. The scales accurately group defendants according to the risk they pose of being arrested for new criminal activity or failure to appear while on pretrial release. With each increase in risk score, defendants become significantly more likely to fail.

Any Failure

Although not a part of the PSA-Court, Kentucky uses the NCA and FTA scales to create an additional measure of pretrial failure. This “Any Failure” measure represents any type of pretrial failure – NCA, FTA, or both. The scores from the NCA and FTA scales are added together and the combined Any Failure rate increases with each corresponding increase in risk level.

Race and Gender

Data from Kentucky’s first six months using the PSA-Court were also closely examined to determine whether the instrument had any discriminatory impact on minorities or women. What it revealed is that the tool is both racially neutral and gender neutral. It accurately classifies defendants’ risk levels *regardless* of their race or gender, meaning it does not have a discriminatory impact.

Race

Black and white defendants at each risk level fail at virtually indistinguishable rates, which demonstrates that the PSA-Court is assessing risk equally well for both whites and blacks and is not discriminating on the basis of race.

Gender

Similarly, when we look at gender, we see that men and women in the same risk category fail at almost exactly the same rate. This indicates that the PSA-Court is assessing risk accurately for both genders and is not discriminating on that basis.

Conclusion

Kentucky is highly regarded nationally as a leader in providing effective pretrial services and has remained at the forefront of the field for the past four decades. The Commonwealth's decision to be the first site in the nation to adopt the PSA-Court is serving the state well. Most importantly, the results show that by using the risk assessment and applying their discretion, Kentucky judges have effectively made pretrial decisions that have reduced crime, reduced jail populations, and led to a smarter and more effective use of criminal justice resources.

Re-assessing Defendants

When circumstances change that affect the risk assessment, the defendant should be reassessed. Regardless of whether or not the defendant is in or out of custody, new Courtnet and NCIC record checks should be done as well as reviewing the assessment for any changes prior to Circuit Court arraignment if bail is going to be addressed. If a defendant has been reassessed add a memo to the file.

Domestic Violence

403.720 Definitions for KRS 403.715 to 403.785.

As used in KRS 403.715 to 403.785:

1. "Domestic violence and abuse" means physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, stalking, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple;
2. "Family member" means a spouse, including a former spouse, a grandparent, a grandchild, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;
3. "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;
4. "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

How to determine the criteria for Domestic Violence:

1. The charges on the citation or warrant are clearly domestic violence in nature. For example, the charge "Violation of a Domestic Violence Order" clearly indicates that the charge is domestic and violent in nature. Another example is the charge of "Assault 4th (family)." Again, the charge is domestic in nature (family) and violent in nature (Assault 4th).
2. The presence of a JC-3 in support of the citation. The JC-3 is an additional form completed by arresting officers in Domestic Violence cases. The JC-3 contains information that is not normally on an arrest citation such as, weapon involved, children present, medical attention required, etc. By examining the citation and the JC-3 it can be determined that the charge is violent in nature and involves family members.
3. The description of the offense on the citation or warrant provides information that the charges are violent in nature and involves a domestic relationship as defined above. For example, a disorderly conduct charge in and of itself does not indicate that it is a domestic violence offense. However, if the description of the offense on the citation or warrant indicates that it was of a violent nature and indicates that it involved a domestic relationship, the charges would be considered domestic in nature.

If the defendant is arrested on a bench warrant for FTA on an underlying charge that is domestic in nature the DV box should be checked.

Temporary and Interpersonal Protective Orders will be treated as a domestic violence offense in PRIM. For qualifying information see statute KRS 456.040 in this guide.

Permission to Interview

The purpose of the permission to interview statement is to inform the defendant how the information gathered will be used as mandated by RCr 4.08.

RCr 4.08 Confidentiality of pretrial services agency records

Information supplied by a defendant to a representative of the pretrial services agency during the defendant's initial interview or subsequent contacts, or information obtained by the pretrial services agency as a result of the interview or subsequent contacts, shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the defendant except in the following circumstances:

- (a) information relevant to the imposition of conditions of release shall be presented to the court on a standardized form when the court is considering what conditions of release to impose;
- (b) information furnished by the defendant to the pre-trial services agency and recorded on a completed interview form shall be furnished to law enforcement officials upon request if the defendant fails to appear in court when required;
- (c) information concerning compliance with any conditions of release imposed by the court shall be furnished to the court upon its request for consideration of modification of conditions of release or of sentencing or of probation;
- (d) information relevant to sentencing or probation shall be furnished to the court upon its request for consideration in imposing sentence or probation;
- (e) at its discretion, the court may permit the probation officer, for the purpose of preparing the pre-sentence investigation report, and the defense attorney to inspect the completed interview form;
- (f) any person conducting an evaluation of the pre-trial release program may have access to all completed interview forms upon order of the Supreme Court.
- (g) all information obtained from the defendant and all information provided to the court shall be provided to the defendant's attorney.
- (h) information relating to a defendant's status as a military veteran may be shared with the Department of Veterans Affairs in order to facilitate the provision of services available to the defendant.
- (i) the risk assessment questions level and score may be electronically accessed by the prosecutor and counsel for the defendants.

At the beginning of the initial interview with a representative of the pretrial services agency, the defendant shall be advised of the above uses of information supplied by the defendant or obtained as a result of information supplied by the defendant.

Additional information regarding confidentiality: Keep in mind the following regarding the rule of confidentiality:

- A judge or trial commissioner may view or receive a copy of all Pretrial Reports upon request.
- The defendant's attorney-of-record may view or receive a copy of all Pretrial Reports (minus the NCIC record).
- The defendant, through written consent on the Waiver and Consent for Release of Confidential Information (PT-36), may authorize any other party to view the Pretrial Report (minus the NCIC record).
- Police officers are not authorized to review any Pretrial Reports. The exception is when a defendant fails to appear in court on pending charges and the officer needs to serve the defendant with a bench warrant for failure to appear in court. The bench warrant for failure to appear should be confirmed and only information relevant to the service of the warrant should be provided to the officer. The defendant's last known address or current place of employment may be provided.
- The confidentiality rule does not apply to the CourtNet or Kentucky driver's history records.

Judicial orders: If a judge orders a Pretrial Officer to release either the Pretrial Report or information that is confidential to a party who should not be given access to this information, advise the judge that this information may be protected as confidential pursuant to RCr 4.08.

Comply with the judge's order and immediately notify the Central Office.

Who may view the Pretrial report: All judges, their staff and the DPA are authorized to view the Pretrial Services report electronically through Courtnet. Prosecutors are authorized to view the risk assessment only. Computers are available to each judge on the bench, which allows them to review the reports electronically at their will. Given both the fiscal and environmental costs of printing paper records, having judges review these reports electronically is the preferred method.

See PRIM basics in LMS.

Interviewing Defendants

Defendant's Demeanor

The primary role of Pretrial Services is to interview incarcerated defendants. The very nature of the job is such that Pretrial Officers may encounter defendants who are hostile, surly, antagonistic, angry, and/or confused. A defendant's behavior is not directed toward the Pretrial Officer as an individual or due to the position, but may be influenced by factors such as intoxication, being arrested, booking procedures, length of incarceration prior to the Officer's contact, or the inability to communicate in or understand English. An effective Pretrial Officer must understand these various influences and clearly and patiently explain the process to each defendant. The Pretrial Officer should develop a comfortable introduction that includes name, position and role in the court process. If a defendant does not speak English well enough to understand, Pretrial Officers are required to obtain an interpreter via the Language Line.

Some defendants will want to discuss their current charges. Other than informing the defendant what the current charges are, Pretrial Officers cannot discuss the circumstances surrounding the arrest. Problems with arrest or detention procedures should be referred to the proper authorities. Under no circumstances should Pretrial Officers speculate regarding the likelihood of release from custody or other practices of the court. Practicing law without a license is a criminal offense. KRS 524.130

Based on research, court notification is the most effective tool in maintaining high appearance rates. Therefore, it is important to obtain current contact information from the defendant if further follow up is necessary and to provide court notification. Some examples of the importance of obtaining current contact information from the defendants are, but not limited to, the following:

- To contact defendants if pretrial supervision is ordered.
- To contact defendants if they fail to appear in court.
- To notify defendants of upcoming court dates via text.

Current/prior military

431.515 Pretrial release investigation and services -- Provision of information on services and programs for combat veterans.

- (1) All trial courts in this Commonwealth having jurisdiction of criminal causes shall provide such pretrial release investigation and services as necessary to effectuate the purposes of KRS 431.510 to 431.550, including KRS 431.518, and, where practical, to assist in the earliest possible determination of:

- (a) Whether a person is a needy person under KRS Chapter 31; and

- (b) Whether a person has been in combat by asking the question, "Have you served in the National Guard or the United States Armed Forces and been in combat?" during the pretrial release investigation.
- (2) The Supreme Court may by appropriate rule or order establish and provide for such pretrial investigation and release services including, where practical, the taking of financial statements, and the court's determination of whether a person is a needy person as provided in KRS 31.120.
- (3) Pretrial officers shall give contact information on the Kentucky National Guard Family Services Program within the Kentucky Department of Military Affairs or similar programs which provide a full range of services for combat veterans to any person who states that he or she has been in combat, including an opportunity to call the program during the interview.

ALCOHOL/SUBSTANCE ABUSE SCREENING

Pretrial Services screens for recent and relevant substance abuse risk factors. Based upon these factors, being mindful of the statutory obligations of KRS 431.518 (SB4, 2009), Pretrial Services shall make the court aware of any potential substance abuse issues. In its discretion, the court may order certain conditions of pretrial release that may be supervised by Pretrial Services if a release is granted for the defendant.

PSAP

The PSAP program, offered by the Kentucky Department of Corrections per KRS 196.285, allows defendants to receive substance abuse treatment in jail. The program requires minimal participation of 90 days in order to reimburse county jailers for the bed; however, there is no definitive set time for release from the program. Completion of the program is based on the defendant's progress. A defendant may be in the program for a maximum of 365 days (12 months). These defendants may be identified as those charged with a Class C or D felony. If a defendant has a prior felony conviction within the past ten years the defendant is not eligible for PSAP. KRS 533.250(1)(a).

The Pretrial screening process for PSAP is the same throughout the state. Each program has its own procedure as to how the judge and the defendant's attorney are alerted to possible

eligibility for the DOC assessment for entry into the program. This procedure should be clearly outlined in the local Office Procedure Manual.

After the defendant has been screened for eligibility, the attorney and court alerted, and the court agrees to the DOC assessment; the Pretrial Officer will then contact the Program Administrator to inform DOC that the defendant needs an assessment. After DOC has completed the assessment and determined if the defendant would benefit from PSAP treatment, DOC alerts the Pretrial Officer and the Pretrial Officer shares the outcome of the assessment with the defendant's attorney.

The defendant's attorney must be notified for those defendants recommended for the jail PSAP Program (KRS 196.285 requires that a hearing be held before a defendant can enter into the PSAP Program). Refer to local Office Procedures Manual for the process to notify the attorney.

- **Criteria for Recommending Conditions**

- Criteria for recommending conditions for substance abuse treatment (KRS 431.518):**

- Charged with a Class C or D felony under KRS 218A **OR**
 - History of drug or alcohol abuse based on the record (three or more arrests within five years) and charged with any Class C or D felony (not just those falling under KRS 218A) **OR**
 - Answer YES to the PRIM question "Do you think you have a substance abuse problem?" and charged with any Class C or D felony (not just those falling under KRS 218A).
 - When a defendant meets the criteria for conditions of release under the provision of KRS 431.518 as mentioned above and recommended for treatment in a secure facility (PSAP Program), enter an event type of "Flagged for PSAP" with status of "pending" until the court and the defendant's attorney have been notified. Once the court/attorney has been notified, change the status to "Notified Atty/Court." If the defendant posts bail prior to the court's agreement to PSAP or before being accepted in the program, choose the status outcome of 'Denied by Defendant'.
 - Before a defendant can be evaluated for PSAP, a judge has to agree that the defendant can be assessed for the program. If the court orders an assessment/application to participate in a jail treatment program, Pretrial Officers will notify the DOC designee and serve as the liaison between the DOC designee(s) and the court. KRS 196.285.
 - **DOC Assessment:** If DOC accepts the defendant into the jail treatment program, Pretrial

Officers will serve as the liaison between the DOC designee and the court/local officials regarding transportation, compliance notification and/or non-compliance violations. Refer to local procedures guide for local PSAP/SB4 protocol.

THE AFFIDAVIT OF INDIGENCY (AOI)

1. **Statutory requirement and purpose:** KRS 431.515 and KRS 31.120(2) mandate that Pretrial Services complete an Affidavit of Indigency (AOI), where practical, for defendants (refer to local OPM for instruction). The AOI is used to collect financial information from the defendant that will be used to determine if the defendant qualifies to have an attorney appointed. If so, the court may use the AOI to determine whether to assess fees for the representation. The jail may also use the AOI to recoup medical expenses incurred by defendants and may request a copy of the AOI.
2. **Completing the AOI:** Where applicable, staff must offer to complete an AOI with the defendant.

AOI's shall be offered to all defendants held for other counties.

- Completion of the AOI is important for two primary reasons: (1) potential appointment of a public defender; and (2) proof of defendant's income when drug testing providers' reduced prices are applicable. AOI's are also used by jailers when trying to recoup medical expenses for defendants. As such, Pretrial Officers should make every effort to complete the AOI at the initial interview.
- Because the interview information is confidential, the defendant may believe that all conversations with the Pretrial Officer are confidential. Before beginning the AOI, inform the defendant that the AOI information provided is not confidential. Inform the defendant that some financial information must be obtained that may assist in the appointment of a public defender and may be useful if s/he is released on a condition of drug testing. On the "Interview Information" screen, on the lefthand side, there is a link to the AOI. Select "AOI" and the AOC-350 smart form will open. Use this form to input the information and print.

3. AOI Beginning Questions:

- After informing the defendant that the AOI is not confidential, begin by asking the defendant "Would you like to see if you qualify for a public defender?"
 - If the defendant indicates that s/he is represented by an attorney or intends to hire an attorney, document this on page 2 of the AOI form and document it in PRIM. (How to document is discussed in subsection 11 below.)
 - If the defendant indicates that s/he cannot afford an attorney, complete the AOI form in full.
- Case Number: Indicate the case number if known.
- Court: Indicate whether the charge is in District, Circuit, or Family Court.
- County: Indicate where the charges originate. Remember the defendant may be lodged in one county but may have charges from another county.
- Name: Indicate the defendant's full name.
- Age: Indicate the defendant's age.
- Address: Due to RCr 4.08 (confidentiality), do not enter anything into this field.
- Telephone: Indicate a telephone number where the defendant can be reached or left a message.
- Charges: Indicate all the charges with which the defendant is charged.

4. Income questions:

-
- **Employment:**
 - Ask the defendant if s/he is currently employed. Check either yes or no. If the defendant answers yes, indicate whether the defendant is full-time employed, part time employed, or a temporary/seasonal worker.
 - Indicate the length of employment.
 - Indicate if the defendant is paid monthly, biweekly, or hourly. Record the dollar amount in the adjacent line.
If the defendant is not employed, record the last date the defendant worked.
- **Marital status:**
 - Indicate the defendant's legal marital status. If the defendant is married, ask if his or her spouse is employed. If yes, indicate whether the spouse is paid monthly, biweekly, or hourly and record the dollar amount the defendant's spouse earns in the adjacent line.
- **Total income:**
 - Record the total income from all other sources and amount of income received per month. Inquire if the defendant receives any income from the following sources: welfare, food stamps, social security/disability, worker's compensation, unemployment, retirement, child support/maintenance, stocks, trusts, bonds, child care assistances and/or any other source.
 - Record the total income from all other sources. In the next line, add the defendant's income, spousal income, and income from other monthly sources to calculate the total monthly income.

5. **Property:**

- **Real estate:** Ask the defendant if s/he owns real estate and indicate yes or no. If yes, indicate the value of the real estate and indicate the amount still owed. Ask the defendant if he or she owns a mobile home. If yes, indicate the value and the amount owed.
- **Personal property:** Record the defendant's personal property by indicating if the defendant owns a motor vehicle in operable condition (including motor cycles, riding lawn mowers, ATV's, etc.). If the defendant indicates yes, record the make and model year of the motor vehicle, the value of the vehicle, and the amount owed.
- **Bank accounts:** Ask if the defendant has any bank accounts. If s/he indicates yes, record the total balance of all accounts.

- - **Other assets:** Ask the defendant if s/he owns any other assets such as boats, jewelry, and cash. If yes, indicate the type, value, and amount owed, if applicable.
6. **Dependents:**
- ☐ Ask the defendant if s/he has any dependents. Dependents include all children, elderly, or disabled family members for whom the defendant provides food, shelter, and support. If the defendant indicates yes, record the number of dependents, the relation of the dependent, and the age of the dependents.
7. **Monthly expenditures:**
- **Rent:** Ask the defendant if s/he pays rent or a mortgage payment. If yes, record the amount of the monthly payment.
 - **Child support:** Ask the defendant about any child support obligation(s). If the defendant indicates yes, record the monthly payment amount.
- Monthly bills:** Ask the defendant if s/he pays any other out-of-pocket monthly bills. These include: utilities, water, telephone, internet, cable/satellite, cell phone, car payment, credit card payment, car/health/home owners/renters insurance payment, un-reimbursed childcare, tuition, medical debts, student loan payment, and other financial obligations. Total the out-of-pocket monthly bills and indicate the amount in the designated space.
- **Total expenditures:** Combine the total monthly expenditures, which include the total out-of-pocket monthly bills, total mortgage payment/rent and child support obligation.
8. **Cash bond:**
- ☐ This question is only applicable for those who are not in jail. If released on the case, indicate the amount and who posted the bond.
9. **Attorney:**
- ☐ The next section lists three statements. Select the appropriate one(s) for the defendant:
 - I am not now represented by an attorney; ○ I am without sufficient financial means or assets to afford a private attorney; or
 - I have retained or intend to retain private counsel. This option includes a space to enter the name of the attorney the defendant has retained or intends to retain.
10. **Oath:** Supreme Court Administrative Procedures Part XIV, Section 1 permits Pretrial Officers to administer an oath on the affidavit of indigency. Before administering the oath, read aloud the perjury warning verbatim as it appears on the AOI. Ask the defendant to sign acknowledging that s/he understands the

- warning. Once this is completed, administer the oath. You administer the oath by having the defendant raise his/her right hand and ask, “Do you swear or affirm that the information you have provided in this affidavit of indigence is true and complete to the best of your knowledge?” The defendant will sign that s/he is swearing to tell the truth, and that the facts and information in the AOI are true and correct to the best of his or her knowledge.

Sign the bottom of the form under “signature/title of officer gathering information.

11. Finishing the AOI:

- On the third page of the AOI form, complete the following fields: Case Number (if available), Court, and County. Enter the defendant’s name in the next field. The judge will complete the remaining portion of the form.
- Once the AOI is completed update PRIM. On the “Interview Information screen,” select “Add” on the event list. Select “AOI offered” in the “type” section and choose the status of either “completed” or “declined.” If the defendant

declined, place a memo in the “memo box” stating that the defendant has either hired an attorney or intends to hire an attorney.

Administrative Release

The administrative release program gives pretrial officers authority to release defendants based on risk and charge (see Supreme Court Order 2017-19 in Resource section of this guide). The purpose of Administrative Release is to expedite pretrial release of low and moderate risk defendants charged with non-sexual, non-violent misdemeanors and to increase efficiency by reserving resources for higher risk defendants ordered to pretrial supervision.

Administrative Release became mandatory on January 1, 2017. Pretrial Officers must determine defendant’s eligibility for release. If ineligible for administrative release, then a judge is contacted for the bail decision.

Pink release slips (AOC 365.1) should not reflect a judge’s name. Either “administrative release” or the pretrial officer’s name should be indicated on the release slip. See OPM for local protocols related to Administrative Release.

PROCESS FOR RELEASING ARs in PRIM

For any defendant eligible for AR but has another charge preventing them from physically being released from jail, RELEASE, if the other charge is on the same file/interview. You may or may not have a pink copy of the AOC-365. If you do have a pink slip, use the correct release time. If you do not have a pink slip, enter the bail decision time as one minute past the booking time (unless an alcohol related charge, then enter eight hours past booking time and release).

For any defendant eligible for AR but has a holder (make sure to document what the holder is in the holder box) or is sentenced, etc.: DO NOT RELEASE until physically released from jail. EXCEPTION: when they have a holder that will be served prior to their court date, then you may go ahead and release (example 3 days to serve).

Once again, you may or may not have a pink slip. If you do have a pink slip, use the correct release time. If you do not have a pink slip, enter the bail decision time as one minute past the booking time and release (unless an alcohol related charge, then enter eight hours past booking time).

If the defendant has not been released and will not be released prior to court date, a future court date should be entered as a reminder and checked at least three days before to see if the defendant is still in jail. If defendant has been released, RELEASE in PRIM so a text reminder for the

upcoming court date will be generated. These will need to be checked to assure a release is done for the text reminder.

Recommendations

MAKING RECOMMENDATIONS TO A JUDGE

General: Pretrial Officers are required to interview and investigate those charged with bailable offenses, verify the defendant's identity, assess risk and make a release recommendation to the court within 24 hours of the defendant being lodged into the jail. Once the defendant's identity is verified and the risk assessment is completed, a recommendation to the court will be made. RCr 4.06, AP XIV, Sec. 2 & KRS 431.066.

- Each judge is independent, and requirements may vary by jurisdiction. Any local variances should be documented and retained in the OPM. The information below is the Pretrial Services' policy. As with all policies, if a judge requires something different, a deviation should be submitted to the Central Office.
- **Basic information:** Objective facts should be relayed to the court regarding the defendant. This information may include, but is not limited to, charging information, the defendant's prior record, the defendant's risk category (level and score) and staff's recommendation. Information pertinent to the potential release, such as domestic violence situations that would preclude the defendant from returning to the residence or threats of not returning to court should also be provided. Personal feelings should not be a factor and statements such as "something just bothers me about this defendant" are not permissible. Personal biases should not influence the way in which defendants are presented to the court. It is imperative to maintain neutrality.
- **Determining the appropriate judge to contact:** The first step in making a recommendation to a judge is to determine the appropriate judge to contact. There are exceptions to every rule; therefore, be familiar with the local practices. In some areas a special order by the Chief Justice grants the District Court Judge authority to handle Circuit Court cases. In general, Circuit Court judges have jurisdiction over Circuit Court cases and District Court judges have jurisdiction over District Court cases. To confirm these practices, refer to local Operation Procedures Guide.
- **Judicial availability:** Recommendations must be made within twenty-four hours of the defendant being lodged in the jail. AP XIV, Sec. 2. This can present difficulties if a judge or trial commissioner is not available; therefore, be aware of their schedules and absences from the district. Arrangements should be made to contact another member of the judiciary, i.e., a trial commissioner, district judge, chief regional district judge, circuit judge, or chief regional circuit judge. If any of the local judges will not take evening or weekend calls or have advised not to contact the chief regional

judges and this is prohibiting defendants from being presented within 24 hours, as required by AP XIV, Section 2, this must be brought to the attention of Central Office.

- **Preparation to present:** Before making a recommendation to the judge, review the file, confirm proper record checks were completed, verify the assessment is accurate and confirm the citation and/or warrants are available. Read citations or warrants to become familiar with the circumstances surrounding the charges, paying particular attention to defendants being extradited from other states, felonies, violent offenses, and domestic violence. Determine bail credit eligibility. If the defendant has any other pending cases on his record, that should be communicated to the judge during presentation.
- **Active Warrant:** If a warrant yet to be served is discovered, the court should be notified. The active status of the warrant should be verified through ewarrants.
- **Domestic violence:** When presenting information about a defendant charged with a domestic violence offense, report all information relating to any outstanding and/or past protective orders. In addition, provide the alternate address information obtained during the interview/investigation process
- **Ex Parte Communication:** This type of communication is often referred to as “one sided” or “off-the-record.” For example, a Pretrial Officer speaks to a family member and the family member indicates that the defendant has a substance abuse problem, needs treatment and asks the Pretrial Officer to relay that information to the judge. If the Pretrial Officer shares this information with the judge, it would be considered ex parte communication since this communication is coming from only one side. A Pretrial Officer should never engage in any communication that may prejudice the court concerning a defendant.
- **Re-arrest:** Before presentation, a search of PRIM must be conducted to find those defendants arrested on a new offense while a case is pending. (for directions on how to complete search see pg.63) A defendant could have been arrested in another county and the PTO in that county may not have followed proper procedures in notifying the charge county. It is the responsibility of the PTO to notify the judge/prosecutor when a defendant is arrested on a new offense while a case is pending regardless if that defendant is currently being supervised. The notification procedure for those not being supervised may be different from county to county depending on protocols. The local OPM should have your procedure for notifying the court on those not on active supervision.

Bail Type:

- **Release on Recognizance:** Requires only the signature of the defendant and a promise to appear in court as scheduled. KRS 431.520
- **Unsecured:** Requires that the defendant sign and promise to appear. While no money is posted, there is a money amount attached to this type of bail and a failure to appear in court or a failure to abide by conditions imposed by the court could lead to a forfeiture of bail and the defendant would be required to pay. KRS 431.520
- **Surety:** Requires a third party to sign with the defendant. The party signing will usually be required to own property, but this does not necessarily mean that a lien will be placed upon the property. This type of bail is subject to approval on a local basis. If the defendant fails to appear for court or fails to abide by conditions that may be imposed by the court, the amount the surety (3rd party) signed for may be subject to forfeiture by the court. The amount of the forfeiture would be the amount set as the bond. KRS 431.520(3)(a).
- **Cash:** Requires full cash amount to be posted. If the defendant does not show up for court appearances or does not abide by conditions imposed by the court, the court may forfeit the full cash bond. If no violations of the conditions of bond occur, then the full amount will be refunded upon disposition of the case. KRS 431.531(3)(c).
- **Partially Secured or Percent:** Requires a percentage other than 10% of a cash amount set as bond. There is a processing fee for this type of bail, so upon release of the bond only 90% of the percentage posted would be refunded. If the defendant does not show up for court appearances or does not abide by conditions imposed by the court, s/he may be subject to pay the full bond amount as forfeiture by the court. RCr. 4.04(1)(d)(ii)
- **10%:** The majority of partially secured bonds are 10%; thus, PRIM allows for this as a separate option. This bail type requires a ten percent deposit of the cash amount set as the bond. There is a processing fee for this type of bail, so upon the release of the bond only 90% of the 10% posted would be refunded. If the defendant does not show up for court appearances or does not abide by conditions imposed by the court, s/he may be subject to pay the full bond amount as forfeiture by the court. KRS 431.520(3)(b).
- **Property:** Requires property owners to have equity in their property that is equal to twice the face amount of the bond in order to qualify. A lien will be placed on this property to secure the bond. If the defendant does not show up for court appearances or does not abide by conditions imposed by the court, the property may be subject to forfeiture by the court. There are also fees for processing this type of bond. The lien on the property will be released upon disposition of the case. KRS 431.535(3)
- **Stocks and Bonds:** Requires that stocks or bonds “which are not exempt from execution and which over and above all liabilities and encumbrances have a value equal to the total amount of the bond.” KRS 431.535(2)
- **Guaranteed Arrest Bond Certificate:** KRS 431.021

- **Probable Cause Found:** This is not technically a type of bail; however, use this bail type if, after a probable cause review has been conducted, the judge orders the defendant to be released due to “no probable cause found.”
- **60-day rule:** This is not technically a type of bail; however, enter this “bail type” when a defendant is released from jail due to an indictment not being returned within the statutory time limit of 60 days. RCr. 5.22(3).
- **No Bond:** Use this bail type when the judge orders that no bond can be posted.

BAIL: MAXIMUM AMOUNT AND BAIL CREDIT

Maximum Bail Amounts

- **Misdemeanors:** If a bail amount is set for defendants charged with only misdemeanors, the bail set for all the misdemeanors cannot exceed the maximum fine for the one highest misdemeanor charged plus court costs. KRS 431.525. Court costs vary by county. If the judge sets a bail higher than the maximum bail allowed, document the judge’s reason for doing so on the presentation screen in PRIM. Make sure the clerk receives a copy of the release decision, so the clerk can enter it into the official court file.
- Exceptions to maximum bail KRS 431.525:
 - ✦ Charges involving physical injury or sexual contact; or
 - ✦ If the judge finds that the defendant is a flight risk or is a danger to others.
 - ✦ **Felonies:** The maximum bail statute does not apply if the defendant is charged with one or more felony offenses. If the defendant is charged with both misdemeanor and felony offenses, the maximum bail amount would only apply to the misdemeanor offenses but not the felony offenses.

Bail Credit

KRS 431.066: Subsection (a) of this statute provides that regardless of the amount of bail set, “the court shall permit the defendant a credit of \$100 per day as payment toward the amount of bail set for each day or portion of a day that the defendant remains in jail prior to trial.” “A day or portion of a day” is defined by the statute as “any time spent in a detention facility following booking.” “Upon service of sufficient days in jail to have sufficient credit to satisfy the bail, the defendant shall be released from jail.” The statute also provides, however, that a defendant shall not earn the \$100-a-day credit as referred above while also earning fine credit pursuant to KRS 534.070.

- **Qualifications and exceptions:** Bail credit does not apply if a defendant: ✦ Potential Violent Offender:

To determine if a defendant is a violent offender, review the CourtNet and NCIC records for convictions of Capital Offenses, Class A felonies,

Felony Sex Offenses, KRS 531.310 (use of a minor in a sexual performance), 531.320 (promoting a sexual performance by a minor), Criminal Abuse 1st or Robbery 1st.

There are circumstances where there will be insufficient information to determine if an offender is a violent offender. These circumstances include: a defendant convicted of a Class B felony involving death or serious injury to a victim; unlawful transaction with a minor 1st where there is a sexual aspect to the crime; KRS 529.100 (Human trafficking) where the victim is a minor; Burglary 1st accompanied by assault; and Burglary 1st accompanied by a kidnapping. Err on the side of caution if it cannot be determined a defendant is a violent offender. Report to the judge the defendant is a potential violent offender.

✦ Criminal History (has been previously convicted) under KRS Chapter 510 (sexual offenses). KRS Chapter 510, sexual offenses include:

- Rape 1st, 2nd, 3rd; ○ Sodomy 1st, 2nd, 3rd; ○ Sexual Abuse

- 1st; ○ Indecent Exposure 1st degree, only 3rd offense or more

within three years; and

- Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities.

- of Human Trafficking involving commercial sexual activity;
 - for Incest;

- for Unlawful Transaction with a Minor 1st (sexual activity);

- for Use of Minor in a Sexual Performance; or ○ for

Promoting Sexual Performance by a Minor.

Reviews

24-hour reviews:

RCr 4.38 requires that pretrial officers inform the court of defendants in custody who are not released from jail after 24 hours after conditions of bail were set. Consult local office procedures guide regarding how to conduct a 24-hour review.

Probable cause review (PCR):

A probable cause review must be conducted within 48 hours of a warrantless arrest. If the defendant was arrested on a warrant, is arraigned within 48 hours, or is released from custody within 48 hours of arrest, no probable cause review is required.

In *Riverside v. McLaughlin*, 500 U.S. 44 (1991), the U.S. Supreme Court determined that in support of the Fourth Amendment of the United States Constitution, a probable cause determination is required to detain an individual charged and arrested without a warrant for a criminal offense. Probable cause in this context means that the charging document properly states a criminal offense and that there is factual information to support the arrest of the particular individual who has been charged.

A probable cause determination must be done within 48 hours of arrest. Advise the judge/trial commissioner that a probable cause review needs to be done. Read word for word what the police officer has written on the citation and/or post-arrest complaint. Ask the judge/trial commissioner if s/he finds probable cause.

When finished, document in PRIM by entering an event with type “probable cause review,” status “completed,” outcome either “probable cause found” (judge stated probable cause was found) or “probable cause not found/Def released” (judge did not find probable cause and ordered the defendant to be released). The judge may set other types of bail at his or her discretion. If the defendant is released due to no probable cause found, enter the bail type “no probable cause” and release the defendant from the system.

Whether the probable cause reviews are done at the initial presentation, the 24-hour review, or later, should be included in the local Office Procedures Guide.

If the judge/trial commissioner declines to conduct a PCR within 48 hours, document this information in the memo section of PRIM and contact the immediate supervisor.

Release Decisions

It is the Pretrial Officer’s responsibility to notify the jail and the clerk of the release decision. Copies of the release decision must be provided to the jail where the defendant is housed and to the Circuit Clerk in the county in which the charge originated. The copies of the release decisions are

to be distributed immediately upon obtaining the release decision by the court. The jail and clerk shall be provided a new release decision any time there is a change in defendant's bail. Distribution of release decisions is important because:

- **Entered into the record:** KRS 431.066 requires that all judicial decisions regarding release be entered into the official court packet. These decisions are subject to appeal; thus, it is mandatory that the clerk receives every release decision. It is staff's duty to ensure that the clerk's office receives the release decision in a timely manner.
- **Domestic violence, assault and sexual charges:** Pretrial Services are also obligated by statute to inform the clerks of conditions placed on defendants charged under KRS 508 (assault), KRS 510 (sexual offense), and violation of emergency protective orders within 24 hours. It is the clerk's responsibility to enter this information in KyCourts II. KRS. 431.064
- **Jail:** The jail will need release decisions from initial presentation as well as any changes in bail subsequently made by the court. It is Pretrial Services' responsibility to distribute the bail information.
- **Judges' signature:** The bottom of the Release Decision includes a line for signature and date for judges who wish to sign the release decisions. A judge is required to complete a written order if s/he does not release a defendant per the statute and a release decision can serve as a written order. Refer to local procedures for instruction on this process.

Bond Revocation

Refer to statute 431.545. When the court determines a bail forfeiture, document in PRIM by going to the original file and adding new bail decision. Update defendant's address and telephone number if necessary.

Updating Court dates

Court dates are required to be documented for all in custody defendants and all supervised defendants until they are released from MCR or there is a final disposition in the case (this includes cases waived to the Grand Jury). This ensures staff will have the information readily available for court notifications

Case Numbers

Case numbers are to be entered in PRIM on every case regardless in the defendant posts bail or their case is disposed.

In-Custody Maintenance

The in-custody report includes all defendants who have not been released from jail while case is pending. This report includes defendants who have not yet been presented to the judge for release decisions and defendants who have been in custody throughout the pendency of their case.

In-custody maintenance is a shared responsibility among staff, however; it is the supervisor's responsibility to monitor this task, if delegated.

Alternative Release

Alternative Release

This allows management of the in-custody population and allows staff to keep track of where defendants are in the system. Alternative releases are to only be applied to the cases of in-custody defendants. When an alternative release type is entered, the defendant's case will no longer appear on the in-custody list in PRIM. To utilize: On the Case Information Detail Screen, find "Alternative Release" box. There are two options within this box. PRIM will automatically default to "none" unless the second option has been selected. The second option will provide additional selections in a drop-down menu.

The five selections in the drop-down menu include: disposed prior to release, transferred to another secure facility, indicted by grand jury, escaped or released in error. Beneath each selection is a field to indicate date and time of the alternative release.

- **Disposed Prior to Release:** select when an in-custody defendant's case has been disposed of; enter the date and time of disposition.
- **Transferred to Another Secure Facility:** select when a defendant has been transferred out of the local county jail to another secure facility other than a county jail (such as KCPC, penitentiary, etc.). This Alternative Release type also removes the defendant from the in-custody report. Add documentation in the memo box to record where the defendant has been transferred. Add a "faux" future court date into PRIM as a quality assurance measure to prevent these defendants from getting lost even though the case may not have a court date scheduled. If the defendant actually has a court date scheduled, enter that date instead of a "faux" date. If the defendant returns to the jail, update PRIM to reflect this by selecting "none" on the

Alternative Releases, thus removing the alternative release type. Then, remove the “faux” future court date, if you had to create one. The defendant’s case will return to the in-custody report.

- **Indicted by Grand Jury:** select *only* when a defendant, who is still in custody, has been indicted by the grand jury. This will remove the district court case from the in-custody report.
- **Escaped:** select when an in-custody defendant has escaped from custody while the case is still pending.
- **Released in Error:** select when a defendant has been released by mistake. Add documentation in the memo box to record the details of the mistaken release.

Holding County: In order to accurately maintain the in-custody population, run the report by “Holding County”. Verify that all defendants on the report are, in fact, in custody. The in-custody maintenance shall be a holding county responsibility.

- If the defendant has been transported to another county jail, contact that county to verify that the defendant is in that county’s jail and change the holding county. Simply changing the holding county without notice or verifying that the defendant is in that county’s jail is not permissible.

Daily in custody maintenance includes:

- Check daily all cases and modify those cases with current information.
- Check for any cases without case numbers and add them unless they are new cases that have not yet been arraigned.
- Check for any cases without an attorney listed that have been arraigned and enter the correct spelling of the attorney’s name. If the defendant is represented by the Department of Public Advocacy, DPA may be entered into the attorney name field. If the defendant is pro se, meaning the defendant is representing him/herself, enter pro se in the attorney name field.
- Check any cases without a judge listed that have been arraigned and enter the judge's name using the drop-down box.
- The judge presiding over a probation violation will be the same as the sentencing judge.
- Since cases are assigned to specific divisions, if the sentencing judge is no longer on the bench, enter the judge’s name who now presides over that specific division. Sometimes the judge who signed the warrant may not be the judge presiding over the case.
- Check for any obsolete charges that may have been amended during court proceedings and correct them by using CourtNet. On bench warrants from old cases the obsolete charge will not be modified because the defendant will be prosecuted under the law as it was at the time the defendant was charged. Whenever a charge

is changed or modified in any way, it is staff's responsibility to edit PRIM so that it matches the official court record.

At least two times per week, obtain an alphabetical list of inmates who are currently in-custody from the jail. Cross-reference the PRIM in-custody list with the jail list. Investigate any discrepancies between the two lists by utilizing PRIM memos, KYCourts II, CourtNet, VINE, JusticeXchange, or the official court file. If the defendant has been released from custody, document this in PRIM.

If the jail records indicate that a defendant is not in-custody, yet the defendant appears on the incustody report be sure to check the following: the documents section of Ky Courts II, CourtNet, JusticeXchange, VINE, or check the jail hard copy file records.

If a defendant has been transported to receive a mental health evaluation or to prison use alternative release of "transferred to another secured facility" and note the circumstances in the memo. Since transport orders often are not provided to Pretrial Services, search the system regularly to find these cases so they can be cross referenced with CourtNet to determine if the case has been disposed of.

Once the case is disposed of, change the Alternative Release to "disposed prior to release".

If a defendant has been transported to attend court in another county, do not change the holding county as the defendant will return to custody upon completion of court date.

Filing

The information in PRIM must be kept current and it is mandatory that staff regularly update and maintain PRIM. The Pretrial Services report is to be modified in PRIM; the hard (paper) copy does not have to be modified and should not be kept. If staff handwrites changes on a guide file, staff doubles their workload and defeats PRIMs purpose to save staff time. Therefore, maintaining hard copy files other than those mentioned below is not permitted. Staff must maintain hard copies of compliance issues or upload to SharePoint for:

- Supervision (MCR) files
- Diversion files (see diversion training materials)
- Deferred Prosecution

Retention of Files: All forms should be maintained in the files as long as the case remains open, regardless of the retention schedule. Files may be destroyed based on the following schedule:

- Permission to Interview for declines—two years

- Disclosure Statement—should be filed in the employee’s file
- Supervision (MCR) files—two years
- Deferred Prosecution—two years
- Diversion—two years.

Expungements

When a criminal record is expunged it means the information in files, computers, and all records pertaining to the criminal charge are destroyed and not available for public view

DOCUMENTING EVENTS

Maintaining events daily in PRIM is essential to ensure accurate data and prove the effectiveness of pretrial services. The purpose is twofold: (1) to assist staff with daily job duties and (2) to collect data to demonstrate staff workload and staff effectiveness (two keys to obtaining and maintaining proper funding). When information is entered correctly, incomplete work and unfinished tasks can be easily located daily through the search features in PRIM, thus preventing defendants from “falling through the cracks” and ensuring that the court is properly and promptly notified regarding compliance issues. The following are the different type, status and outcome options

Type	Status	Outcome
24-hour Review	Completed	Judicial Decision Entered
AOI Offered	Completed Declined	NA
Arrested on New Offense	Confirmed	N/A Awaiting Decision Bail Revoked Change in Conditions No Action by Court

Arrested on New Offense/Public Safety* (refer to Public Safety Offenses chart on SharePoint)	Confirmed	N/A Awaiting Decision Bail Revoked Change in Conditions No Action by Court
Attempt to Interview	Completed Declined Inaccessible Unresponsive	N/A
Call-In	Compliant Pending Rescheduled by Office Rescheduled by defendant	N/A

Call-In	Non-Compliance/Violation Filed	Awaiting Decision Bail Revoked Bench Warrant Active Change in Conditions No Action by Court No Action by Prosecutor Referred Back to MCR Released from MCR Summons Issued
Call-In	Non-Compliance/No Violation Filed	Change in Conditions Counseled No Action Taken
Court Notification	Pending Completed	N/A
Court Notification	Unable to Contact	No Action Taken

Curfew	Compliant Defendant unavailable – violation filed No answer – violation filed Non-compliance – defendant unavailable Non-compliance - no answer Noncompliance – not in service Non-compliance – other Not in service – violation filed Other – violation filed Pending	N/A Change in conditions Counseled No Action Taken Sanctioned
Deferred Prosecution Accepted	Active	N/A
Deferred Prosecution Accepted	Inactive	Successful Terminated
Drug Test	Compliant No sample provided – violation filed No show – violation filed Noncompliance – no sample provided Non-compliance – no show Non-compliance – other Noncompliance – positive drug screen Non-compliance – unable to pay Other – violation filed Pending	Awaiting Decision Bail Revoked Bench Warrant Active Change in Conditions No Action by Court No Action by Prosecutor Referred back to Deferred Prosecution Referred Back to MCR Released from MCR Sanctioned Summons Issued Terminated from Deferred Prosecution
	Positive drug screen – violation filed Results pending Unable to pay – violation filed	

Flagged for Mental Health Court	Notify Atty/MH Court	Accepted N/A Not Accepted Pending
Flagged for PSAP/SB4	Notified Atty/Court	Accepted into Program Awaiting Decision by Court Awaiting Decision by DOC Denied by Court Denied by Defendant Denied by DOC Graduated from Program Terminated from Program
Flagged for PSAP/SB4	Pending	N/A
Follow up with Defendant	Completed Pending	N/A
HIC/EM	Compliant	N/A
HIC/EM	Report to Law Enforcement	Completed Pending
HIC/EM	Non-Compliance/ Violation Filed	Awaiting Decision Bail Revoked Bench Warrant Active Change in Conditions No Action by Court No Action by Prosecutor Referred Back to MCR Released from MCR Summons Issued
HIC/EM	Non-Compliance/No Violation Filed	Change in Conditions Counseled No Action Taken

Home Restriction	No Answer Unable to Contact	Bail Revoked Change in Conditions Counseled No Action by Court No Action Taken
Home Restriction	Compliant Pending	N/A
Home Restriction	Non-Compliance/ Violation Filed	Awaiting Decision Bail Revoked Bench Warrant Active

		Change in Conditions No Action by Court No Action by Prosecutor Referred Back to MCR Released from MCR Summons Issued
Home Restriction	Non-Compliance/No Violation Filed	Change in Conditions Counseled No Action Taken
Mental Health Treatment	Compliant In Progress	N/A
Mental Health Treatment	Non-Compliance/Violation Filed	Awaiting Decision Bail Revoked Bench Warrant Active Change in Conditions No Action by Court No Action by Prosecutor Referred Back to MCR Released from MCR Summons Issued

Mental Health Treatment	Non-Compliance/No Violation Filed	Change in Conditions Counseled No Action Taken
Office Visit	Pending Compliant Re-scheduled by Defendant Re-scheduled by Office	N/A
Office Visit	Non-Compliance/Violation Filed	Awaiting Decision Bail Revoked Bench Warrant Active Change in Conditions No Action by Court No Action by Prosecutor Referred Back to MCR Released from MCR Summons Issued
Office Visit	Non-Compliance/No Violation Filed	Change in Conditions Counseled No Action Taken
Order of Supervision	By Recommendation	Administrative Release

	By Referral	Awaiting Initial Office Visit Awaiting Release From Custody Case Disposed Never Reported PT 60 Signed
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Probable Cause Review	Completed	Probable Cause Found Probable Cause Not Found/Def. Released
Proof of Compliance	Pending Compliant	N/A

Proof of Compliance	Non-Compliance/Violation Filed	Awaiting Decision Bail Revoked Bench Warrant Active Change in Conditions No Action by Court No Action by Prosecutor Referred Back to MCR Released from MCR Summons Issued
Proof of Compliance	Non-Compliance/No Violation Filed	Change in Conditions Counseled No Action Taken
Released from Supervision	Case Disposed Of Deferred Prosecution Order By Court Request by Defendant Revocation	N/A
Substance Abuse Treatment	Compliant In Progress	N/A
Substance Abuse Treatment	Non-Compliance/Violation Filed	Awaiting Decision Bail Revoked Bench Warrant Active Change in Conditions No Action by Court No Action by Prosecutor Referred Back to MCR Released from MCR Summons Issued

Substance Abuse Treatment	Non-Compliance/No Violation Filed	Change in Conditions Counseled No Action Taken
Supervision Record Check	Pending Completed	No Change Warrant
Supervision Report	Completed	N/A

EVENT, STATUS, AND OUTCOME DEFINITIONS

FOR EVENT TYPES:

1. **24-hour review:** This event is entered when the 24-hour review notification is completed; it is a one-time entry. If a 24-hour review notification was not completed do not enter the event.
2. **AOI Offered:** This event is entered each time an AOI is offered to a defendant.
3. **Arrested on New Offense:** This event is entered when a defendant who was released is arrested on a new offense that does not impact public safety (see chart on SharePoint) while the case is pending. Document this event in the file of the pending case in which the defendant was released. Do not document on the new offense file.
4. **Arrested on a New Offense/Public Safety:** This event is entered when a defendant who was released is arrested for a new offense that involves public safety (see chart on SharePoint) while the case is pending. Document this event in the file of the pending case in which the defendant was released. Do not document on the new offense file.
5. **Arrested on New Offense/While in Custody:** This event is entered when a pretrial defendant who is in custody has new charges such as, assault on an inmate or promoting contraband. This event is optional.
6. **Attempt to interview:** This event is entered each time an interview has been offered to a defendant who has declined to be interviewed.
7. **Call-in:** This event is entered for all defendants under Pretrial Services' supervision who are scheduled to call the Pretrial Office on a specific day. This is considered an entry in the electronic "appointment book."

8. **Court Notification:** This event is entered for all defendants unable to provide a working testing number. These defendants will need to be contacted by manual phone calls to be reminded of any upcoming court dates. This event need to be checked daily.
9. **Curfew:** This event is entered for all defendants under Pretrial Services' supervision who have curfew restrictions as a condition of their release. Curfew events should be entered for all defendants under Pretrial Services' supervision who need to be contacted for curfew compliance. The event date should reflect a date in the future when verification of curfew compliance will be conducted. This is considered an entry in the electronic "appointment book."
10. **Deferred Prosecution Accepted:** This event is entered when a defendant has been referred to Pretrial for supervision on deferred prosecution by the commonwealth attorney and the defendant has agreed to the terms of supervision. This is a one-time entry.
11. **Drug Test:** This event is entered for all defendants under Pretrial Services' supervision scheduled for drug testing. Drug testing events should be entered for all defendants under Pretrial Services' supervision who are ordered to drug test. The drug testing event date should reflect a future date. Refer to local OPM for information concerning testing dates.

This is considered an entry in the electronic "appointment book."

12. **Flagged for PSAP/SB4:** This event is entered for all defendants flagged for the jail treatment program under the provisions of KRS 431.518 (Senate Bill 4). This is a onetime entry.
13. **Follow up with Defendant:** This event is entered each time contact is made with a defendant for the purpose of obtaining additional information, to follow up when a surety is ordered, and the defendant is still in custody, or to document contact with defendants out of custody on supervision.
14. **HIC/EM:** Home Incarceration/Electronic Monitoring: This event is used to document noncompliance for those defendants under Pretrial Services' supervision with a condition of electronic monitoring or home incarceration. It is also used to report those on home incarceration and electronic monitoring to law enforcement to meet statutory requirements.

A. HIC/EM event is entered for all defendants under Pretrial Services' supervision who are ordered to HIC/EM, have an electronic device and is being monitored by an outside provider. The HIC/EM date should reflect a future date to check compliance with the outside provider. In addition, this event is also used with a status of "report to law enforcement" when providing HIC/EM supervision lists to local law enforcement agencies. This is an entry into the electronic "appointment book."
15. **Home Restriction:** This event is entered for all defendants under Pretrial Services' supervision who are restricted to their homes without the use of electronic monitoring devices. The Home Restriction date should reflect a future date and be monitored similarly to curfew. This is considered an entry in the electronic "appointment book"

16. **Office Visit:** This event is entered for all defendants under Pretrial Services' supervision who are scheduled to report in person to the Pretrial Office on a specific day. This is considered an entry in the electronic "appointment book."
17. **Order of Supervision:** This event is entered when a defendant is ordered to MCR under Pretrial Services' supervision. This is a one-time entry.
18. **Probable Cause Review:** This event is entered when the probable cause review has been completed. This is a one-time entry.
19. **Proof of Compliance:** This event is entered for any defendant under Pretrial Services' supervision who is required to provide proof of compliance with a specific condition of release (for example: seek/maintain employment, obtain clinical assessment/evaluation, attendance at educational programs, pay child support, etc.). This is considered an entry in the electronic "appointment book" and serves as a reminder to verify that the defendant is in compliance with the conditions of release.
20. **Released from Supervision:** This event is entered when a defendant is no longer under Pretrial Services' supervision. This is normally a one-time event entered once a defendant's case is disposed or the bail is revoked. However, there may be an occasion when after a revocation a defendant is referred back to supervision (MCR). These types of situations would have multiple "released from supervision" events entered.
21. **Substance Abuse Treatment:** This event is entered for any defendant under Pretrial Services' supervision who is ordered to obtain substance abuse treatment as a condition of release. This is considered an entry in the electronic "appointment book" and serves as a reminder to verify that the defendant is in compliance with the treatment.
22. **Supervision Record Check:** This event is entered when a search of a defendant's NCIC record for new offenses is completed on defendants being supervised by Pretrial Services.
23. **Supervision Report:** This event is entered for all defendants under Pretrial Services' supervision in which a supervision report has been submitted to the court prior to the defendant being sentenced. This is considered an entry in the electronic "appointment book".

FOR EVENT STATUSES:

1. **Active:** This status is only an option for the event type "deferred prosecution accepted." It is entered when the defendant accepts the terms of the deferred prosecution agreement and places the defendant on active supervision status.
2. **By Recommendation:** This status is only an option for the event type "order of supervision" and is entered when the judge orders a defendant to supervision (MCR) based on Pretrial Services recommendation.
3. **By Referral:** This status is only an option for the event type "order of supervision" and is entered when the judge orders a defendant to supervision and Pretrial Services did not make the recommendation. .

4. **Case Disposed Of:** This status is only an option for the event type “Released from MCR” and is entered when final disposition of a case occurs for defendants under Pretrial Services supervision.
5. **Completed:** This status is entered when the task identified by the event type has been completed. For most event types with this option, this status is the default.
6. **Compliant:** This status is entered for defendants under Pretrial supervision who are compliant with a specific condition as identified by event type. For example, each time a defendant appears for an office visit as required, the event status is changed from “pending” to “compliant” and a new event is entered for the next scheduled office visit with the status of “pending.” For drug testing, compliant means the drug test result was negative.
7. **Confirmed:** This status is a default for all new criminal activity event types and should be utilized once staff has confirmed the re-arrest.
8. **Declined:** This status is entered when the defendant declines to provide information needed to complete the AOI.
9. **Deferred Prosecution:** This status is only an option for the event type “Released from Supervision”. It is entered when a defendant is released from Pretrial supervision and placed on Deferred Prosecution.
10. **In Progress:** This status is only an option for the event types “Mental Health Treatment, “Substance Abuse Treatment.” It is entered when a defendant is referred to and attending treatment. Once treatment has been completed, update the status to “compliant”.
11. **Inaccessible:** This status is only an option for the event type “attempt to interview.” It is used when the defendant is not accessible to Pretrial Services for an interview.
12. **Inactive:** This status is only an option for the event type “deferred prosecution accepted.” It is used when the defendant is no longer under Pretrial Services’ supervision.
13. **Non-Compliance/No Violation Filed:** This status is entered for defendants under Pretrial Services’ supervision who violate the conditions of their release and a violation is not filed.
14. **Non-Compliance/Violation Filed:** This status is entered for defendants under Pretrial Services’ supervision who violate the conditions of their release and a violation is filed.
15. **Notified Atty/Court:** This status is only an option for the event type “Flagged for Treatment/SB4” and is entered when the court is notified that the defendant is a potential candidate for treatment under the provisions of KRS. 431.518 (Senate Bill 4)
16. **Notify Atty/MH Court:** This status is only an option for the event type “Flagged for Mental Health Court” and is entered when the court or defendant’s attorney has been notified that the defendant has been “flagged” as a potential candidate.
17. **Order by Court:** This status is only an option for the event type “Released from MCR” and is entered when the court orders a defendant under Pretrial Services’ supervision to be released from his or her conditions. Enter this status if the defendant did not request this action.

18. **Pending:** This status reflects an open “appointment” in the “electronic appointment book.” For example, upcoming office visits, a scheduled drug test, etc. This status is also used to ensure that defendants do not fall through the cracks. No event statuses of “pending” should exist for past dates. “Pending” should reflect future dates with the exception of “flagged for mental health court” and this status will remain pending from the time of arrest until arraignment.
19. **Report to Law Enforcement:** This status is only an option for the event type “HIC/EM” and is entered when staff provides the list of active defendants on electronic monitoring or home incarceration to law enforcement agencies.
20. **Request by Defendant:** This status is only an option for the event type “Released from MCR” and is entered when a defendant under Pretrial Services’ supervision moves the court to release him or her from a supervised condition and the court grants the motion.
22. **Rescheduled by Defendant:** This status is only an option for the event type “Office Visit” and is entered when a defendant under Pretrial Services’ supervision requests to reschedule an office visit.
23. **Rescheduled by Office:** This status is only an option for the event type “Office Visit” and is entered when the Pretrial Officer reschedules an office visit for a defendant under Pretrial Services’ supervision.
24. **Results Pending:** This status is only an option for the event type “Drug Test” and is entered after a defendant has taken a drug test but the results have not been received.
25. **Revocation:** This status is only an option for the event type “Released from MCR” and is entered when a defendant under Pretrial Services’ supervision has his or her bail revoked. In these instances, do not remove bail entries from the existing case or “unrelease” defendants. The proper way to handle these is to simply add the new bail and note in the memo that the previous bail was revoked
26. **Unable to Contact:** This status is only an option for the event type “Court Notification” and is entered when staff is unable to contact a defendant who is on Court Notification
27. **Unresponsive:** This status is only an option for the event type “attempt to interview.” It is used when the defendant does not respond or is unable to respond to the Pretrial Officer’s attempt to interview the defendant.

FOR EVENT OUTCOMES:

1. **Accepted:** This outcome is only an option for the event type “Flagged for Mental Health Court” with the status of “Notified Atty/MH Court” and is used when participating programs accept a defendant into the Mental Health Court.

2. **Accepted into Program:** This outcome is only an option for the event type “Flagged for PSAP/SB4” and is used when a defendant is identified as a potential candidate for treatment under the provisions of SB4, the judge refers, DOC accepts, and the defendant agrees.
3. **Awaiting Decision:** This outcome is only an option for the status type of “NonCompliance/Violation Filed” and is entered after the violation has been filed and the prosecutor and/or the court have not made a decision.
4. **Awaiting Decision by Court:** This outcome is only an option for the event type “Flagged for PSAP/SB4” and is used when a defendant is identified as a potential candidate for treatment under the provisions of SB4 and the court has not made a decision.
5. **Awaiting Decision by DOC:** This outcome is only an option for the event type “Flagged for PSAP/SB4” and is used when a defendant is identified as a potential candidate for treatment under the provision of SB4, the court has ordered an assessment by DOC for acceptance, and staff is awaiting their decision.
6. **Awaiting Hearing:** This outcome is only an option for the event type of “arrested on new offense” with the status of “non-compliance/violation filed.” It is only entered when a defendant is under Pretrial Supervision, the court has been notified, and the defendant is waiting for a hearing to be held.
7. **Awaiting Initial Office Visit:** This outcome is only an option for the event type of “order of supervision” and can be used with either event status of “by recommendation” or “by referral.” The outcome is used when a defendant has been ordered to supervision, has been released from custody but has yet to report to the office to review the terms of supervision.
8. **Awaiting Release from Custody:** This outcome is only an option for the event type of “order of supervision” and can be used with either event status of “by recommendation” or “by referral.” This outcome is used when a defendant has been ordered to supervision but has not been released from custody.
9. **Bench Warrant Active:** This outcome is only an option for the status type of “NonCompliance/Violation Filed” and is entered when a warrant is issued by the court for a violation of conditions of release.
10. **Bail Revoked:** This outcome is an option for the event type “Arrested on New Offense”, “Arrested on New Offense/Public Safety”, as well as event statuses of “Non-Compliance/Violation Filed”. It is entered if the court revokes a defendant’s bail due to the new offense or the non-compliance.
11. **Change in Conditions:** This outcome as it relates to the status types

“NonCompliance/Violation Filed” and “Non-Compliance/No Violation Filed” is used when the judge modifies conditions of a defendant’s release under Pretrial Supervision. As it relates to the event type “Arrested on New Offense” or “Arrested on New Offense/Public Safety” it is entered any time a judge changes a defendant’s conditions of release.

12. **Completed:** This outcome is only an option for the event type “HIC/EM” with the event status of “report to law enforcement” and is used when law enforcement has been notified of those defendants on HIC/EM.

13. **Counseled:** This outcome is only an option for the status of “Non-Compliance/No Violation Filed” and is entered when the Pretrial Officer counsels a defendant on ways to assist with the defendant’s compliance. This option only applies in jurisdictions where there is an agreement with the judge that allows for this level of Pretrial discretion.
14. **Denied by Court:** This outcome is only an option for the event type “Flagged for PSAP/SB4” and is used when a defendant is identified as a potential candidate for treatment under the provisions of SB4 and the judge declined to take action. If at any time during the pendency of the case, the court orders the assessment for acceptance into the Jail Treatment Program, modify this outcome to reflect this change.
15. **Denied by Defendant:** This outcome is only an option for the event type “Flagged for PSAP/SB4” and is used when a defendant is identified as a potential candidate for treatment under the provisions of SB4; the court and DOC approved, but the defendant refused to participate or posted bail prior to being accepted. (The defendant has the right to refuse treatment at any stage.) If this occurs, properly document this outcome. 16.
- Denied by DOC:** This outcome is only an option for the event type “Flagged for PSAP/SB4” and is used when a defendant is identified as a potential candidate for treatment under the provisions of SB4 and the judge ordered the assessment. However, DOC denied the request for acceptance.
17. **Graduated from Program:** This outcome is an option for the event type “Flagged for PSAP/SB4” and is used when a defendant completes the DOC PSAP program.
18. **Judicial Decision Entered:** This is the default outcome for the event type “24-hour Review” and serves as a reminder to enter the judicial decision as a presentation.
19. **N/A:** This outcome is used when an outcome is “not applicable” with an event status.
20. **No Action by Court:** This outcome is only an option for the status type of “NonCompliance/ Violation Filed” and is entered when the judge chooses not to act on a violation of conditions of release.
21. **No Action by Prosecutor:** This outcome is only an option for the status type of “NonCompliance/ Violation Filed” and is entered when the prosecutor does not act on a violation of conditions of release.
22. **No Action Taken:** This outcome is only an option for the status type of “NonCompliance/No Violation Filed” and is used when the Pretrial Officer takes no action regarding the violation at the direction of the court. This outcome type is also the default for the status type “unable to contact” under the event type of “court notification.” 23.
- Not Accepted:** This outcome is only an option for the event type “flagged for mental health court” with the event status “Notify Atty/MH court.” It is entered when the court or defendant’s attorney has been notified that the defendant has been “flagged” as a potential candidate, a hearing has been held and the defendant was not accepted into mental health court.

24. **Pending:** This outcome is an option for the event type “flagged for mental health court” with the event status “notify Atty/MH court” and is entered when the court or defendant’s attorney has been notified that the defendant has been “flagged” as a potential candidate and a hearing has been scheduled. This outcome is also an option for the event type “HIC/EM” with the event status of “report to law enforcement” and is used as a reminder to report those defendants on HIC/EM to law enforcement every 30 days.
25. **Probable Cause Found:** This outcome is entered after a Probable Cause Review has been conducted and the judge found probable cause for the arrest.
26. **Probable Cause Not Found / Def. Released:** This outcome is entered after a Probable Cause Review has been conducted, the judge did not find probable cause for the arrest and the defendant was released from jail.
27. **PT-60 Signed:** This outcome is only an option for the event type of “order of supervision” and can be used with either event status of “by recommendation” or “by referral.” This outcome is used when a defendant has been ordered to supervision and has met with Pretrial and signed the PT-60 agreeing to the terms of supervision. Note: the event is not completed until the PT-60 has been signed.
28. **Referred Back to MCR:** This outcome is only an option for the status type of “Non-Compliance/ Violation Filed” and is entered when the judge orders a defendant back to Pretrial Services’ supervision after a violation has been filed.

Released from MCR:

This outcome is only an option for the status type of “Non-Compliance/ Violation Filed” and is entered when the judge releases a defendant from Pretrial Services’ supervision after a violation has been filed.

1. **Successful:** This outcome is only an option for the event type “deferred prosecution accepted” with the event status of “inactive” and is used when the defendant has successfully completed the deferred prosecution supervision period.
2. **Summons Issued:** This outcome is only an option for the status type of “NonCompliance/Violation Filed” and is entered when a summons is issued by the court for a violation of conditions of release.
3. **Terminated:** This outcome is only an option for the event type “deferred prosecution accepted” with the event status of “inactive” and is used when the defendant did not successfully complete the deferred prosecution supervision period and agreement for deferred prosecution was terminated.

4. **Terminated from Program:** This outcome is an option for the event type “Flagged for PSAP/SB4” and is used when a defendant has been terminated from the DOC PSAP program.

COURT DATE INFO CRITERIA

Type	Status	Outcome
Circuit Court	Completed FTA/Financial FTA/Non-financial FTA While in Custody Pending Rescheduled	N/A FTA/Active Summons FTA/Summons Served No Action by Court Warrant INFO
District Court	Completed FTA/Financial FTA/Non-financial FTA While in Custody Pending Rescheduled	N/A FTA/Active Summons FTA/Summons Served No Action by Court Warrant INFO
Family Court	Completed FTA/Financial FTA/Non-financial FTA While in Custody Pending Rescheduled	N/A FTA/Active Summons FTA/Summons Served No Action by Court Warrant INFO
Grand Jury	FTA/While in Custody Indicted No Indictment Pending	N/A FTA/Active Summons FTA/Summons Served No Action by Court Warrant INFO

FOR COURT DATE TYPE DEFINITIONS:

1. **Circuit Court:** Court dates for cases in which there are CR or CI case numbers that are not under the jurisdiction of a Family Court Judge.
2. **District Court:** Court dates for cases in which there is C, F, J, M, P, S, or T case numbers that are not under the jurisdiction of a Family Court Judge.
3. **Family Court:** Court dates for all cases assigned to a Family Court Judge.
4. **Grand Jury:** Court dates for F cases once they are waived or bound to the grand jury.

FOR COURT DATE STATUS DEFINITIONS:

1. **Completed:** Enter this status when the court date has occurred, and the defendant was present.
2. **FTA/Financial:** Enter this status if a defendant who was released on a financial bail (cash, property, partially secured, percent, or partial bail credit) failed to appear for a scheduled court date.
3. **FTA/Non-financial:** Enter this status if a defendant who was released on a non-financial bail (ROR, USB, surety, or full bail credit) or under the 60-day rule failed to appear for a scheduled court date.
4. **FTA/While in Custody:** Enter this status if a defendant failed to make a scheduled court appearance due to being in jail.
5. **Indicted:** This status is only an option for the court date type “Grand Jury.” Enter this status if a defendant is indicted by the Grand Jury.
6. **No Indictment:** This status is only an option for the court date type “Grand Jury.” Enter this status if a defendant is not indicted by the Grand Jury.
7. **Pending:** Enter this status for all upcoming court dates. Once the date has occurred document the correct status. No court dates should have a status of pending in the past; all should be future dates.
8. **Rescheduled:** Enter this status for all court dates in which the defendant was not present because the appearance was rescheduled.

FOR COURT DATE OUTCOME DEFINITIONS:

1. **FTA/Active Summons:** Enter this outcome when the judge has issued a summons or notified DOT after a defendant has failed to appear. These are found when verifying court appearances for supervised defendants (MCR). Staff does not have to search for this information for defendants who are not under Pretrial Services’ supervision.
2. **FTA/Summons Served:** Enter this outcome when the summons has been served.
3. **No action by Court:** Enter this outcome in circumstances in which the judge does not issue a summons or a warrant when a defendant fails to appear. For example; cases in which DOT is notified of an FTA without a warrant being issued.
4. **Warrant Info:** Enter this outcome when a bench warrant is issued by the court for failure to appear. When this outcome is entered, choose “Issued” under “Warrant Details” and enter

the date the warrant was issued. Once the warrant is served, recalled, or the defendant turns him or herself in, the warrant outcome must be documented, and the correct date entered.

The purpose of this is to calculate the length of time a defendant is a “fugitive”

QA Searches

INTERVIEW ID

This field allows you to search by the interview ID number

✦ ACTIVE MCR

Search results under this status will display files that are on active supervision. The results are based on an entry of event type “MCR Accepted”, outcome of “PT60 Signed” and no event type entered of “Released from MCR.” If cases appear on this search that are not on active MCR, you will need to ensure the proper event was entered. From the

“interview” tab

* Holding county, click STATEWIDE

* Active MCR, click YES From the “case” tab

* Charge county,

* Click, SEARCH

✦ POSTED EARLY BOND

Search results under this status will display files for defendants who have posted bond prior to being interviewed. These results are those in which the option “posted bond prior to interview” is chosen on the Permission to Interview screen. From the

“interview” tab

* Holding county, click STATEWIDE

* Posted sched/Preset bond, click YES

From the “case” tab

* Charge county,

* Click, SEARCH

✦ DECLINED INTERVIEW

Search results under this status will display files for defendants who have declined to be interviewed. These results are those in which the option “declined to be

interviewed” is chose on the Permission to Interview screen. From the “interview” tab *
Holding county, click STATEWIDE

* Declined interview, click YES From the “case” tab

* Charge county

* Click, SEARCH

✦ **IN-CUSTODY**

Search results under this status will display files for defendants who are in-custody. These results are those in which you have not released a defendant from the release screen OR released a defendant using one of the alternative release options.

✦ **TO BE PRESENTED**

Search results under this status will display files that have yet to be presented to a judge or trial commissioner for a release decision. (No bail decision/bond entered into

PRIM). Select “to be presented” in the status field. Select the appropriate charge county.

Keep the holding county as “Statewide.” From the “interview” tab

- * Holding county, click STATEWIDE

- * Status, click TO BE PRESENTED

From the “case” tab

- * Charge county

- * Click, SEARCH

You also want to conduct a search with the charge county being “Statewide” and the holding county. This will allow you to find anyone being held in the holding county (regardless of charge county) that is still waiting for a release decision to be made.

From the “interview” tab

- * Holding county

- * Status, click TO BE PRESENTED

- * From the “case” tab

- * Charge county, click STATEWIDE

- * Click, SEARCH

If there are any files displayed in either of these searches, you will need to investigate as to why they are there and determine what work needs to be done. Please pay special attention to the booking time to ensure that the 24-hour rule is not violated.

✦ **NEEDS 24-HOUR REVIEW**

Search results under this status will display files that have not had a 24-hour review notification completed. A new bond must be entered if the bond changes or a different judge reviews it.

From the “interview” tab

- * Holding county, click STATEWIDE
- * Status, click NEEDS 24-HOUR REVIEW

From the “case” tab

- * Charge county
- * Click, SEARCH

ACCEPTANCE NOT KNOWN

Search results under this status will display files in which the interview status is “not known.” If there are any files displayed, you will need to investigate to determine whether an interview was conducted. If one has not been conducted, then you must attempt to interview the defendant. If an attempt has been made, then you must investigate in order to determine whether the defendant accepted or declined and update PRIM accordingly.

From the “interview” tab

- * Holding county, click STATEWIDE
- * Acceptance drop down box, click UNKNOWN From the “case” tab
- * Charge county
- * Click, SEARCH

✦ ASSESS/PENDING ON ARREST

Search results under this status will display files in which question number four (is the defendant charged with a new offense while there is a pending case) on the risk assessment is answered as “no” but the new offense was linked using the link option, “arrested on new offense while case is pending.” If there are files displayed, you will need to investigate and update PRIM accordingly. If the defendant was arrested on a new offense while a case is pending, then you need to change the answer to question four from “no” to “yes.” If the defendant was not arrested on a new offense while a case is pending you will need to “unlink” the pending case. From the “interview” tab * Holding County, click STATEWIDE

Search One:

- * Assess/pending on arrest, click NO From the “interview” tab
- * Charge county
- * Link option type, click ARRESTED ON NEW OFFENSE WHILE CASE IS PENDING
- * Click SEARCH

✦

This search will reveal files where the assessment was answered as “no pending case” but was linked as arrested on new offense. These files will need to be reviewed for incorrect link or assessment error.

Search Two:

*Assess/pending on arrest, click YES From the “interview” tab

*Charge county

*Enter date range

* Click SEARCH

This search will reveal files where ‘yes’ was answered on the assessment so there should be a link of arrested on new offense.

✦ **COURT DATES PENDING (from the Court tab)**

“From” and “To” Date

These fields allow you to search a date range of dates for court date entries. **Court County**

This field allows you to search by the county in which the defendant is attending court. **Type**

This field allows you to search by court type. Make sure that when you are searching for open court dates that you check all options: District, Circuit, Grand Jury, and Family.

You can search each one individually or you can leave the status at ALL and the search will bring up court dates for all of those options.

✦ **EVENT SEARCH (from the event tab)**

“From” and “To” Date

These fields allow you to search a date range of dates for event date entries. **Event County**

This field allows you to search by the county in which the defendant is under our supervision. For example, Jefferson County staff may be supervising a defendant with Hardin County charges because the defendant lives in Jefferson County.

Type

This field allows you to search by event type. **Status**

This field allows you to search by status. This will be helpful in managing your supervision/MCR caseload. Event statuses of *pending*, *pending action*, or *results pending* must be checked daily. All events that have these statuses must be investigated to determine what, if any follow-up work needs to be done.

Outcome

This field allows you to search by outcome of the selected event. The event outcomes *awaiting decision, awaiting decision by court, awaiting decision by DOC, awaiting hearing, bench warrant active, and pending* must be checked weekly.

FINDING EVENTS NOT NECESSARY

From the “interview” tab

* Active MCR, click NO From the

“event” tab

* Type, click ALL

* Status, click PENDING (a second search of “results pending” needs to be completed as well)

* Outcome, click ALL

* * Click SEARCH

If any files appear, you will need to investigate to determine if they need to be corrected. Some files will maintain an outcome of pending or pending action. These are necessary events for Flagged for PSAP and re-arrests; however, you will need to verify that the actions are in fact still pending.

MANAGING FTA’S

□ Active Warrant

Search results under this status will bring back files on defendants who have failed to appear in court and have active bench warrants. After running this search, you will need to verify the status of the warrant through KY COURTS or Courtnet to see if it is still active or if it has been recalled or served. Then, update the status accordingly.

For financial and non-financial releases:

From the “interview” tab

* Holding county, click STATEWIDE

From the “court” tab

* Active warrant, click YES

* Leave the date fields blank



- * Court county
- * Click SEARCH For MCR clients:

From the “interview” tab

- * Holding county, STATEWIDE
- * Active MCR, click YES From the “court” tab
- * Active warrant, click YES
- * Leave the date fields blank
- * Court county
- * Click SEARCH

✦ **To verify that the correct FTA was entered you need to complete the below searches:**

1. From the “interview” tab

* Non-financial release, click YES

* Leave the date field blank

From the “court” tab

* Court county

* Type, click ALL

* Status, click FTA/FINANCIAL

* Outcome, click ALL * Click, SEARCH

If any files appear, you will need to correct them by changing the status under the court date from **FTA/Financial** to **FTA/Non-financial**.

2. From the “interview” tab

* Non-financial release, click NO

* Leave the date field blank

From the “court” tab

* Court county

* Type, click ALL

* Status, click FTA/NON-FINANCIAL

* Outcome, click ALL * Click, SEARCH

If any files appear, you will need to correct them by changing the status under the court date from **FTA/Non-financial** to **FTA/Financial**.

✦ **MANAGING RE-ARRESTS**

To check files in which defendants were arrested on a new offense and a decision has not been made on whether or not to file a violation please complete the below search:

From the “event” tab

* Event county

* Leave the date field blank

* Type, click ARRESTED ON NEW OFFENSE (you also must do another search for ARRESTED ON NEW OFFENSE/PUBLIC SAFETY)

✦

- * Outcome, click AWAITING DECISION
- * Click, SEARCH

✦ **BAIL CREDIT TIME EXPIRED**

Search results under this status will display files in which the defendant has been in custody the sufficient amount of days to satisfy the last bail amount entered. If any defendants show up on the list, you should confirm with the jail whether they are still in custody and if they are due to be released. Then, update PRIM accordingly. From the

“interview” tab

- * Holding county, click STATEWIDE

- * Status, click BAIL CREDIT TIME EXPIRED From the “case” tab
- * Charge county
- * Click, SEARCH

✦ **BAIL CREDIT SEARCHES**

1. The below search will display a list of defendants that have had the bail credit eligible box checked “yes” and the judge ordered a non-financial bond. The bail credit eligible should be left at undetermined on those defendants with non-financial bonds. After running this search, you will have to click into each case, go to the presentation screen, and change the bail credit eligible to undetermined.

From the “case” tab

- * Charge county
- * Bail credit eligible, click YES
- * Bond type, click ROR (then do another search for bond type UNSECURED and SURETY).
- * Click, SEARCH

2. The below search will help to locate those defendants that have had the bail credit eligible box checked “yes,” have bonded out of jail, but have no bail credit applied towards the amount of the bond. After running this search, you will need to confirm that the full bail amount was actually posted. You can check this by looking in Justice Exchange, your jail system, KY COURTS or Courtnet. If the full amount wasn’t posted, unreleased the bond, enter the correct credit amount, and release (make sure to use the correct date/time).

From the “interview” tab

- * In-custody, click NO From the “case” tab
- * Charge county
- * Bail credit eligible, click YES
- * Bail credit applied, click NO

✦ USING THE CASE TAB

Bond Type

This field allows you to search by bond type regardless of whether the defendant is released or not. It is simply searching for the bond type entered.

Case Number

This field allows you to search by individual case number. Please keep in mind that you have to enter the information *exactly* as it was originally entered.

Citation Number

This field allows you to search by citation number.

Link Option Type

Search results under this status will display files for which one of the five link options is present on the case. It is important to check each of these five link options as often as necessary, but no less than weekly or monthly to determine that the information has been documented correctly.

Alternative Release Type

Search results under this status will display files for which one of the five alternative release types is entered on a case. In addition to quality assurance, you will need to perform this search often to keep track of those defendants that are sent on a mental evaluation or to prison while they have a pending case in order to remove the “**transferred to another secure facility**” type when the defendant is back in my jail.

To perform the search to see which defendants have been transferred to another secure facility please see below:

From the “interview” tab

- * Holding county

From the “case” tab

- * Alternative release type, click TRANSFERRED TO ANOTHER SECURE FACILITY
- * Leave the date field blank
- * Click, SEARCH

This search will bring up defendants that have been transferred to another facility while their case is pending. They could have been transferred for a mental evaluation, sent to KSR because they handle the defendant’s medical problems better, etc. You will need to confirm with the jail whether or not the defendant has been brought back to the jail. If so,

remove the transferred to another secure facility option and add the defendant's next court date.

✦ **ADMINISTRATIVE RELEASE PROGRAM SEARCH**

This search will bring up all defendants who have been released by Pretrial

Services without contacting a judge. From the "case" tab

- * Charge county
- * Leave the date field blank
- * Pilot release, click YES
- * Click, SEARCH

✦ **MCR SEARCHES**

1. To determine what needs to be accomplished for the day, you can complete these simple searches.

From the "interview" tab

- * Active MCR, click YES From the "event" tab
- * Event county,
- * From date, enter the current date
- * To date, enter the current date
- * Type, you can limit the search to a specific event such as office visit, call in, etc. or you can leave as ALL. If you leave as ALL this will bring up everyone who has a scheduled office visit, call-in, drug test, etc.

2. To check files in which a decision by the court is pending on violations of condition of release:

From the "interview" tab

- * Active MCR, click YES From the "event" tab * Event county
- * Outcome, click AWAITING DECISION
- * Click, SEARCH

Or, you can narrow this down and search specific events, such as office visit, drug test, etc. In order to do that you would need to put the type of event in the TYPE field and click AWAITING DECISION for the outcome.

NOTE: This search needs to be conducted DAILY so that clients under our supervision do not get lost in the system.

3. To check for files in which the defendant was ordered to report to the MCR program, but has failed to do so, complete the below search:

From the “event” tab

- * Event county
- * Type, click ORDER OF SUPERVISION
- * Outcome, click “awaiting initial office visit”
- * Click, SEARCH

- * Then perform same search with Outcome of “awaiting release from custody”
- * Click, SEARCH

Search results under this status will display files in which the defendant has been ordered to report to the MCR program but has failed to do so and has not yet signed a PT-60 (MCR contract).

4. To check for files in which you are waiting for the results back on a defendant’s drug test, please complete the below search:

From the “interview” tab

- * Active MCR, click YES From the “event” tab
- * Event county
- * Type, DRUG TEST
- * Status, RESULTS PENDING

Search results will display files in which the defendant has taken his/her drug test and we are waiting for the results to come back. Any files that appear on this search need to be checked. Once the results from the test are received, PRIM should be updated accordingly.

✦ MAINTENANCE REPORTS

Every county is required to keep their in-custody list current. The people who we show as in-custody should match what the jail has. Therefore, an in-custody report needs to run WEEKLY. An in-custody report needs to be run by holding county. Running it by holding county will enable us to see who is currently in our jail.

- * At the top left corner of PRIM, click REPORTS
- * Click, IN-CUSTODY
- * Click, BY HOLDING COUNTY
- * Leave the date field blank
- * Click, SEARCH

All files that are displayed need to be investigated in order to determine if the defendant is still in-custody or not. PRIM should be updated accordingly.

✦ **HOLDING COUNTY REPORT**

This report brings up cases in which the holding county is marked as a county in which there is no jail. Using this report, you will need to investigate to determine where the defendant is actually being held and document the correct holding county.

*At the top left corner of PRIIM, click on MAINTENANCE

* Click, HOLDING COUNTY

✦ **BOND MAINTENANCE REPORT**

This report brings up files in which a bond of ROR, UNSECURED BOND, or SURETY BOND was entered, but the case has not yet been “released” from PRIM. All files that are displayed need to be investigated in order to determine if the defendant is still in custody or not. PRIM should be updated accordingly.

✦ **CHARGE REPORT**

This report brings up files in which a charge has been entered into PRIM that is not a criminal charge. Examples include: Failure to Appear, Citation for Misdemeanor and Serving Warrant for Other Agency. All files should be investigated, and the correct charge should be entered into PRIM.

Administrative Procedures, Criminal Rules, Statutes and Supreme Court Orders

Various statutes and criminal rules established Pretrial Services and mandate Pretrial Services various functions. Criminal Rules are created and amended by the Supreme Court after review by a committee and the Kentucky Bar Association (KBA). Administrative Procedures (APs) are solely at the discretion of the Supreme Court. Statutes are enacted by the legislature. Every staff member is responsible for learning all of the relevant rules, APs and statutes. Also included are the Kentucky Constitution sections relating to bail and the Judicial Guidelines for Pretrial Release and Monitored Conditional Release created by the Supreme Court.

**ADMINISTRATIVE PROCEDURES OF THE COURT OF JUSTICE RELATING TO
THE INTERVIEW PROCESS AND THE 24-HOUR RULE**

Supreme Court of Kentucky

2015-07

**In Re: Amendments to the Rules of Administrative Procedure
 AP Part XIV, Pretrial Services**

It is hereby ORDERED that Part XIV of the Rules of Administrative Procedure, Pretrial Services, is hereby amended as follows:

Section 2

1. Within twenty-four hours of a defendant's incarceration on a bailable offense, Pretrial Services must provide the judge or trial commissioner with information to assist the determination of pretrial release and supervision, including an assessment of risks posed by the defendant and recommendations for responding to the risks through use of appropriate conditions of release.
2. Information provided to the judge or trial commissioner will be obtained through Pretrial Services' investigation, including the interview of the defendant and the risk assessment.
3. Failure by Pretrial Services to present this information to the judge or trial commissioner within twenty-four hours of a defendant's incarceration will not result in the automatic release of a defendant.

This Order shall be effective immediately and until further Order.

All sitting; all concur.

Entered this 24th day of March 2015.


CHIEF JUSTICE

**ADMINISTRATIVE PROCEDURES OF THE COURT OF JUSTICE RELATING TO
ADMINISTERING AN OATH ON AFFADAVIT OF INDIGENCE**

Supreme Court of Kentucky

2009-02 _____

ORDER

In Re: ADMINISTRATIVE PROCEDURES OF THE COURT OF JUSTICE,
PART XIV, PRETRIAL SERVICES

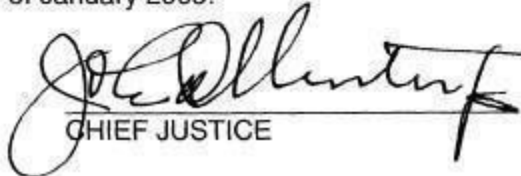
Under Sections 110(5)(b) and 116 of the Constitution of Kentucky, it is HEREBY ORDERED that the Administrative Procedures of the Court of Justice are amended by the adoption of the following Part XIV, Pretrial Services:

Section 1. Administering oath on affidavit of indigency.

A pretrial officer may administer an oath to an affiant on an affidavit of indigency completed pursuant to KRS Chapter 31, KRS 431.515, and Rule of Criminal Procedure 4.06.

This Order shall be effective upon entry, and until further Order.

Entered this the 12th day of January 2009.


CHIEF JUSTICE

SUPREME COURT ORDERING AUTHORIZING ADMINISTRATIVE RELEASE

Supreme Court of Kentucky

2017-19

**IN RE: Authorization for the Non-Financial Uniform Schedule of Bail
Administrative Release Program**

AMENDED ORDER

I. Introduction

This order hereby authorizes the Non-Financial Uniform Schedule of Bail Administrative Release Program, ("Administrative Release Program") for use throughout the Commonwealth of Kentucky. This order replaces in its entirety Supreme Court Order 2017-01.

No local rules, practices, procedures, orders, or other policies of any district or circuit may conflict with or controvert this order; further, to the extent that any such local rules, practices, procedures, orders, or other policies are inconsistent or otherwise conflict with this order, this order shall prevail.

II. Purpose

The purpose of the Administrative Release Program is to expedite pretrial release of low to moderate risk defendants charged with non-violent, non-sexual misdemeanors and to increase efficiency by reserving resources for higher-risk defendants ordered to pretrial supervision.

III. Implementation

The Administrative Release Program became mandatory on January 1, 2017.

IV. Governance

The Administrative Release Program will be governed by the attached Uniform Local Protocol for the Non-Financial Uniform Schedule of Bail Administrative Release Program and all applicable statutes and rules not inconsistent with this Order.

This Order shall be effective upon entry, and until further Order of this Court.

Entered this 5th day of December 2017.


CHIEF JUSTICE

**UNIFORM LOCAL PROTOCOL FOR THE NON-FINANCIAL
UNIFORM SCHEDULE OF BAIL ADMINISTRATIVE RELEASE PROGRAM**

PART I: DEFINITIONS

As used in these sections, unless the context otherwise requires:

- A. "Interview" means an investigation of a defendant for the purposes of pretrial release or pretrial supervision.
- B. "Investigation" means a Pretrial Services investigation containing CourtNet and NCIC records, charge information, personal information and demographics, probation status, address, and application of the PSA Risk Assessment (See Appendix A).
- C. "Non-Financial Uniform Schedule of Bail" means the authority granted by the court to a pretrial officer to apply a pre-determined release decision to detained defendants based on a uniform schedule of bail without the need for a judicial review.
- D. "Public Safety Assessment (PSA) Risk Assessment" means the validated risk assessment tool used in Kentucky, containing questions relating to risk of flight or failure to appear and risk of anticipated criminal conduct or new criminal activity.
- E. "Risk Assessment" means an objective, research based, validated assessment tool that measures a defendant's risk of flight or failure to appear and risk of anticipated criminal conduct or new criminal activity while on pretrial release pending adjudication.
- F. "Risk scores" means the numeric values ranging from a low of '0' to a high of '7' that relates proportionally to the defendant's likelihood of failure to appear (FTA) and from a low of '0' to a high of '13' that relates proportionally to the defendant's likelihood of new criminal activity (NCA) pending adjudication.
- G. "Risk level" means a scale from low to high of the risk a defendant poses of pretrial failure (e.g., failure to appear or presenting a danger to the community).
- H. "Sexual Offenses" means any offense defined as sexual under Kentucky Revised Statutes and those listed by Pretrial Services as sexual for purposes of Pretrial release (See Appendix C).
- I. "Verification" means matching a defendant's identity with an official record.

- J. "Verified and eligible defendant" means a defendant who is charged with a bailable offense and whose identity Pretrial Services is able to confirm through investigation.
- K. "Violent Offenses" means any offense defined as violent under Kentucky Revised Statutes and those listed by Pretrial Services as violent for purposes of Pretrial release (See Appendix B).

PART II: ADMINISTRATIVE RELEASE PROGRAM FOR THE PRETRIAL RISK ASSESSEMENT AND NON-FINANCIAL UNIFORM SCHEDULE OF BAIL

Section 1. Obligations of Pretrial Services and Pretrial Officers

Except where explicitly noted, no provision set forth in this order shall absolve the Administrative Office of the Courts' pretrial services agency and pretrial officers employed by the agency from following the Kentucky Rules of Criminal Procedure, including but not limited to: RCr 4.02, RCr 4.06, RCr 4.08, and RCr 4.38; and the Kentucky Revised Statutes, including but not limited to: KRS 431.066, KRS 431.515, KRS 431.518 and Administrative Procedures of the Court of Justice Part XIV, Pretrial Services.

Section 2. Risk Assessment and Risk Level

- A. All verified and eligible defendants will have their risk level assessed by use of the PSA Risk Assessment.
- B. The PSA Risk Assessment tool, once applied to a defendant, will result in the defendant's risk scores being a value between '0' and '7' for failure to appear (FTA) and between '0' and '13', for new criminal activity (NCA) with corresponding risk levels of Low (Risk), Moderate (Risk), or High (Risk) for both the FTA Scale and the NCA Scale.
- C. The Risk Assessment tool will be applied to the defendant prior to or at the approximate time of the pretrial interview. Nothing in this order shall prohibit the tool from being re-applied to the defendant at any time after the initial application.

Section 3. Eligibility and Release Options

- A. Defendants charged with non-violent/non-sexual misdemeanor(s) whose risk scores have been assessed as Low Risk or Moderate Risk on the FTA scale and Low Risk or Moderate Risk on the NCA scale will be eligible under the Schedule and shall be released on recognizance.
- B. Defendants who are eligible for release under subsection A. of this Section but are charged with a misdemeanor offense of KRS 222.202 (Offenses of Alcohol Intoxication or Drinking Alcoholic Beverages in a Public Place), KRS 525.100

(Public Intoxication), or KRS 189A.010 (Operating Motor Vehicle While Under the Influence, "DUI") shall be released on recognizance as follows:

- i. To an adult who is willing to accept responsibility for the defendant through a signature verification on a form prescribed by the Administrative Office of the Courts; or
- ii. At such time as the defendant is able to safely care for himself or herself but in no event shall the defendant be detained for more than eight (8) hours following his or her arrest; or
- iii. Unless such person's release is precluded by other provisions of law.

If the defendant is in need of emergency medical attention, the arresting officer shall obtain medical attention for the defendant prior to delivery to the jail. KRS 71.040.

- C. Defendants charged with an offense that is punishable by a fine only (violations and traffic infractions) shall be released on recognizance regardless of risk scores except defendants charged with offenses of Alcohol Intoxication or Drinking Alcoholic Beverages in a Public Place shall be released in accordance with subsection B. of this Section.
- D. Defendants charged with contempt of court and/or with violation(s) of misdemeanor or felony probation or conditional discharge are not eligible under the Schedule.
- E. Defendants who have allegedly violated a condition of release, including being charged with a new offense while out on bond, are not eligible under the Schedule.
- F. Defendants charged with violation of a protective order are not eligible under the Schedule.
- G. Defendants charged with a DUI 1st offense with injuries or accident or any aggravated circumstances (other than refusals) and DUI 2nd or greater are not eligible under the Schedule. All statutory times shall be followed for all DUI offenses.
- H. Defendants charged with driving on a DUI suspended license are not eligible under the Schedule.
- I. Defendants who have previously failed to appear on the charge or are charged with Bail Jumping are not eligible under the Schedule.
- J. Defendants who decline the pretrial services interview are not eligible under the Schedule.
- K. All defendants not eligible for release under the Schedule shall only be released upon judicial review and conditions of release ordered by the court.

L. The pretrial officer shall base his or her review on the UOR code assigned by law enforcement, unless the offense charged is a DUI, in which case the pretrial officer shall base his or her review on the CourtNet or Department of Transportation (DOT) record.

M. No defendant shall be held in custody for failure to pay the \$25.00 bond filing fee required under KRS 64.005.

Section 4. Local Deviation

By local rule, judges may order only the following deviation from the Schedule:

Local jurisdictions may order the Schedule's expansion to include certain, non-violent/non-sexual, Class D felony charges, with the exception of the charge of Fugitive from Justice.

KENTUCKY SUPREME COURT RULES OF CRIMINAL PROCEDURE (RCr) RELATED TO BAIL

RCr 3.02 Initial appearance before the judge
RCr 3.18 Order of commitment; bail
RCr 4.00 Recognizance and bail; Definitions of terms
RCr 4.02 Bailable offenses; eligibility for pretrial release
RCr 4.04 Authorized methods of pretrial release
RCr 4.06 Duties of pretrial services agency
RCr 4.08 Confidentiality of pretrial services agency records
RCr 4.10 Release on personal recognizance; unsecured bail bond
RCr 4.12 Release on nonfinancial conditions
RCr 4.14 Nonfinancial conditions on release
RCr 4.16 Amount of bail
RCr 4.18 Motor vehicle traffic violations; guaranteed arrest bond certificate
RCr 4.20 Use of uniform schedule of bail
RCr 4.22 Ten percent deposit
RCr 4.24 Officers authorized to take bail
RCr 4.26 Receipt for and record of cash deposit and bond
RCr 4.28 Custody of cash deposits and bond
RCr 4.30 Qualification of sureties
RCr 4.32 Sufficiency of sureties
RCr 4.34 Justification of security
RCr 4.36 Recording of a real property bond
RCr 4.38 Mandatory review after twenty-four hours
RCr 4.40 Review of conditions of release
RCr 4.42 Change of conditions of release; bond forfeiture
RCr 4.43 Appellate review of bail; habeas corpus
RCr 4.44 Record of discharge
RCr 4.46 Application of deposit to fine or costs
RCr 4.48 Forfeiture of bail
RCr 4.50 Surrender of defendant; exoneration
RCr 4.52 Judgment against surety
RCr 4.54 Continuation of bail
RCr 4.56 Defects in bond or recognizance **RCr**
4.58 Credit for incarceration
RCr 12.78 Bail on appeal
RCr 12.80 Execution and approval of bond

KENTUCKY SUPREME COURT CRIMINAL RULES (RCr) RELATING TO BAIL:

RCr 3.02 Initial appearance before the judge

- (1) An officer making an arrest under a warrant issued upon a complaint shall take the arrested person without unnecessary delay before a judge as commanded in the warrant. If the arrest is made in a county other than that in which the warrant was issued and the arrested person is not taken as commanded in the warrant, the arrested person shall be taken before a judge of the county in which the arrest is made, who shall consider the defendant for release on personal recognizance and so release the arrested person or admit the arrested person to bail for his or her appearance before the proper judge to whom the bail bond and other papers may be transmitted by mail. If the offense is nonbailable, or if the person arrested is unable to give bail, the judge shall commit that person to jail and he or she shall be taken as commanded in the warrant within a reasonable time by an officer of the county in which it was issued.
- (2) Any person making an arrest without a warrant shall take the arrested person without unnecessary delay before a judge and shall file with the court a post-arrest complaint specifying the offense for which the arrest was made and the essential facts constituting probable cause on which the complaint is based. Such complaint need not be verified but shall be signed by the person making the arrest. If the judge before whom the arrested person is taken is in a county other than the county in which the offense was committed, the judge shall proceed as directed in paragraph (1) of this Rule 3.02 as on an arrest under warrant in a county other than that in which the warrant was issued.
- (3) If no judge is available in the county in which the arrest was made the defendant shall be taken to jail, and any documents relating to the arrest shall be given to the jailer. If the defendant is ineligible to post bail under Rule 4.20 or cannot make the bail endorsed on the arrest warrant, the jailer shall take the defendant before the judge without unnecessary delay.
- (4) Any documents relating to the arrest that are in the possession of the jailer shall be delivered to the clerk on or before the next business day.

RCr 3.18 Order of commitment; bail

Whenever a person is committed to jail the judge shall direct the clerk to issue a written order of commitment, which shall be delivered to the jailer by the peace officer who executes it. If the offense is bailable, the judge must fix the sum for which bail is to be given and direct the clerk to enter it on the order of commitment. Thereafter, the bail shall be taken by the clerk of the court in which the defendant is held to appear.

RCr 4.00 Recognizance and bail; definitions of terms As used in these rules the following terms mean:

- (a) "Bail bond" means a written undertaking, executed by the defendant or one or more sureties, that the defendant designated in such instrument will, while at liberty as a result of an order fixing bail and of the execution of a bail bond in satisfaction thereof, appear in a designated criminal action or proceeding when the defendant's attendance is required and otherwise

render himself or herself amenable to the orders and processes of the court, and that in the event the defendant fails to do so, the signers of the bond will pay to the court the amount of money specified in the order fixing bail.

- (b) "Cash bail bond" means a sum of money, in the amount designated in an order fixing bail, posted by a defendant or by another person on the defendant's behalf with a court or other authorized public officer upon condition that such money will be forfeited if the defendant does not comply with the directions of a court requiring the defendant's attendance at the criminal action or proceeding involved and does not otherwise render himself or herself amenable to the orders and processes of the court.
- (c) "Conditions of release" may include financial as well as nonfinancial requirements upon which the defendant's release is dependent. All methods of pretrial release include the conditions of release requiring the defendant to appear before court when required and to submit himself or herself to the orders and processes of the court.
- (d) "Pretrial release" is release of a defendant from custody before his or her trial date. It may be secured by any authorized method of pretrial release including but not limited to release on personal recognizance, on nonfinancial conditions or upon execution of a bail bond. It does not include the procedure for issuance of citation as provided in [KRS 431.015](#).
- (e) "Pretrial services agency" means the agency established or authorized by Supreme Court order to provide pretrial release investigation and services for trial courts having jurisdiction of criminal causes.
- (f) "Release on personal recognizance" means release of a defendant on personal recognizance when, having acquired control over the defendant's person, the court permits the defendant to be at liberty during the pendency of the criminal action or proceeding upon the defendant's written promise to appear whenever his or her attendance before court may be required and to render himself or herself amenable to the orders and processes of the court.
- (g) "Surety" means a person other than the defendant who executes a bail bond and assumes the obligations therein.
- (h) "Unsecured bail bond" means a bail bond for which the defendant is fully liable upon failure to appear in court when ordered to do so or upon breach of a material condition of release, but which is not secured by any deposit of or lien upon property.

RCr 4.02 Bailable offenses; eligibility for pretrial release

- (1) All persons shall be bailable before conviction, except when death is a possible punishment for the offense or offenses charged and the proof is evident or the presumption is great that the defendant is guilty.
- (2) All defendants charged with bailable offenses shall be considered for pretrial release without making formal application except when a capital offense is charged. A person charged with a capital offense must make an application for pretrial release.
- (3) On the hearing of an application for admission to pretrial release made before or after indictment for a capital offense, the burden of showing that the proof is evident or the presumption is great that the defendant is guilty is on the Commonwealth.

RCR 4.04 Authorized methods of pretrial release

- (1) The only authorized methods of pretrial release are on the following or any combination thereof as the court determines:
 - (a) personal recognizance
 - (b) unsecured bail bond
 - (c) nonfinancial conditions
 - (d) executed bail bond
 - (i) with sufficient personal surety acceptable to the court; or
 - (ii) with a deposit with the court of a sum of money equal to at least ten percent of the bond; or
 - (iii) with a deposit with the court of cash equal to the amount of the bond; or
 - (iv) with stocks or bonds which are not exempt from execution and which over and above all liabilities and encumbrances have a value equal to the total amount of the bond; or
 - (v) with real property having a value over and above all liabilities and encumbrances, equal to twice the value of the bond; or
 - (vi) in cases of motor vehicle traffic violations, with a guaranteed arrest bond certificate as provided in [KRS 431.020](#).
- (2) Nonfinancial conditions may be imposed upon any bail bond in the manner provided in [RCr 4.14](#).
- (3) The court shall determine the method of pretrial release and the manner in which a bail bond is executed.

RCr 4.06 Duties of pretrial services agency

The duties of a pretrial services agency authorized by the Administrative Office of the Courts to serve the trial court shall include interviewing defendants eligible for pretrial release, verifying information obtained from defendants, making recommendations to the court as to whether defendants interviewed should be released on personal recognizance, identifying veterans, and any other duties ordered by the Supreme Court. When a defendant requests appointment of counsel, the Pretrial Release Officer shall, where practical, interview the defendant, assist in preparing the affidavit of indigency set out in [KRS 31.120](#), and provide the affidavit to the court and the defendant.

RCr 4.08 Confidentiality of pretrial services agency records

Information supplied by a defendant to a representative of the pre-trial services agency during the defendant's initial interview or subsequent contacts, or information obtained by the pre-trial services agency as a result of the interview or subsequent contacts, shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the defendant except in the following circumstances:

- (a) information relevant to the imposition of conditions of release shall be presented to the court on a standardized form when the court is considering what conditions of release to impose; (b) information furnished by the defendant to the pre-trial services agency and recorded on a completed

interview form shall be furnished to law enforcement officials upon request if the defendant fails to appear in court when required;

(c) information concerning compliance with any conditions of release imposed by the court shall be furnished to the court upon its request for consideration of modification of conditions of release or of sentencing or of probation;

(d) information relevant to sentencing or probation shall be furnished to the court upon its request for consideration in imposing sentence or probation;

(e) at its discretion, the court may permit the probation officer, for the purpose of preparing the pre-sentence investigation report, and the defense attorney to inspect the completed interview form;

(f) any person conducting an evaluation of the pre-trial release program may have access to all completed interview forms upon order of the Supreme Court;

(g) all information obtained from the defendant and all information provided to the court shall be provided to the defendant's attorney;

(h) information relating to a defendant's status as a military veteran may be shared with the Department of Veterans Affairs in order to facilitate the provision of services available to the defendant.

At the beginning of the initial interview with a representative of the pretrial services agency, the defendant shall be advised of the above uses of information supplied by the defendant or obtained as a result of information supplied by the defendant.

(i) the risk assessment questions, level and score may be electronically accessed by the prosecutor and counsel for the defendant.

RCr 4.10 Release on personal recognizance; unsecured bail bond

A defendant shall be released on personal recognizance or upon an unsecured bail bond unless the court determines, in the exercise of its discretion, that such release will not reasonably assure the appearance of the defendant as required. In the exercise of such discretion the court shall give due consideration to recommendations of the local pretrial services agency when made as authorized by order of the Supreme Court.

RCr 4.12 Release on nonfinancial conditions

If a defendant's promise to appear or his or her execution of an unsecured bail bond alone is not deemed sufficient to insure his or her appearance when required, the court shall impose the least onerous conditions reasonably likely to insure the defendant's appearance as required. Such conditions of release may include but are not limited to placing the defendant in the custody of a designated person or organization agreeing to supervise the defendant or to placing restrictions on the defendant's travel, association or place of abode during the period of release.

Commensurate with the risk of nonappearance the court may impose any other condition including a condition requiring the defendant to return to custody after specified hours.

RCr 4.14 Nonfinancial conditions on release

The court shall cause the issuance of an order containing a statement of any conditions imposed upon the defendant for his or her release. The defendant shall sign the statement of conditions and receive a copy thereof. The order shall inform the defendant of penalties applicable to violation of conditions and advise that a warrant for the defendant's arrest will be issued if conditions are violated. The court shall also inform the local pretrial services agency of the conditions of release.

RCr 4.16 Amount of bail

- (1) The amount of bail shall be sufficient to insure compliance with the conditions of release set by the court. It shall not be oppressive and shall be commensurate with the gravity of the offense charged. In determining such amount the court shall consider the defendant's past criminal acts, if any, the defendant's reasonably anticipated conduct if released and the defendant's financial ability to give bail.
- (2) If a defendant is charged with an offense punishable by fine only, the amount of bail shall not exceed the amount of the maximum penalty and costs.
- (3) Amount of bail may also be set in accordance with the uniform schedule of bail prescribed for designated misdemeanors and violations in Appendix A-Uniform Schedule of Bail, of these rules.

RCr 4.18 Motor vehicle traffic violations; guaranteed arrest bond certificate

- (1) Notwithstanding any other provisions of these rules, a guaranteed arrest bond certificate presented by the person whose signature appears thereon shall be accepted in lieu of cash bail in an amount not to exceed five hundred dollars (\$500) as a bail bond to guarantee the appearance of such person in any court of this Commonwealth, at the time required by such court, when such person is arrested for violation of any law of this Commonwealth or traffic ordinance of any municipality therein relating to the operation of a motor vehicle. A guaranteed arrest bond certificate so presented as a bail bond is subject to the same forfeiture and enforcement provisions as a bail bond or cash bail. However:
 - (a) The violation must have been committed prior to the expiration date shown on the guaranteed arrest bond certificate, and
 - (b) A guaranteed arrest bond certificate may not be accepted when a person is arrested for violation of KRS Chapter 281 or subsection (2) of [KRS 189.520](#).
- (2) As used in this Rule 4.18, "guaranteed arrest bond certificate" means a printed card or other certificate issued by the association to any of its members, which is signed by the member and contains a printed statement that such association and a surety company licensed to do business in this Commonwealth;
 - (a) Guarantee the appearance of the person whose signature appears on the card or certificate, and
 - (b) Will, in the event of the failure of such person to appear in court at the time set for appearance, pay any fine or forfeiture imposed upon such person in an amount not to exceed five hundred dollars (\$500).

RCr 4.20 Use of uniform schedule of bail

- (1) The defendant may execute a bail bond in accordance with the uniform schedule of bail (Appendix A) for designated nonviolent Class D felonies, misdemeanors and violations without appearing before a judge. If a defendant chooses to execute a bail bond in accordance with the schedule without appearing before a judge and proceeds to do so, that defendant waives his or her statutory right to be considered for other authorized methods of pre-trial release. Before said waiver is effective, the defendant must be informed of his or her right to appear before a judge without unnecessary delay, and to be considered for release on personal recognizance.
- (2) In the exercise of its reasonable discretion the court may refuse to set bail in the amount, but must record written reasons for the deviation.
- (3) Each court may by local rule establish a uniform schedule of bail for violations of ordinances of cities and counties over which it has jurisdiction; provided, however, that when the ordinance is punishable by a fine only, the amount of the bond set shall not exceed the amount of the maximum penalty and costs.

RCr 4.22 Ten percent deposit

- (1) If a ten percent cash deposit to the court is accepted, in no event shall it be less than ten dollars.
- (2) A ten percent deposit will not be accepted to secure bail in the amount designated on the uniform schedule for bail for traffic, boating, fish and wildlife offenses listed therein.

RCr 4.24 Officers authorized to take bail

When the amount of bail has been fixed either by the court or by the uniform schedule of bail, it may be taken by the clerk of the court in which the defendant is held to appear. Another bonded public officer shall be authorized by the chief judge of the circuit court to take bail. The authorized bonded public officer shall take bail when the clerk of the court is unavailable. The individual with whom deposits are made shall ascertain that the amount deposited is no less than the amount fixed by the court.

RCr 4.26 Receipt for and record of cash deposit and bond

- (1) When an authorized officer receives a cash deposit the officer shall give a receipt to the person from whom the officer receives the money on a uniform receipt form provided by the Administrative Office of the Courts.
- (2) The person who takes the bail bond shall see that the bond form is completed. That person shall give one copy to the defendant and one to the clerk of the court in which the defendant is held to appear. The clerk shall file the copy in the case file.

RCr 4.28 Custody of cash deposits and bond

The court copy of the bond and the cash deposited with an individual authorized to take bail in the absence of the clerk shall be delivered to the clerk by the next business day. The clerk shall forthwith deposit the money in an escrow account for all cash deposits and bail, which account may include other funds held by the court.

RCr 4.30 Qualification of sureties

- (1) Each surety, except a corporate surety that is approved as provided by law, shall be a resident or owner of real estate within the Commonwealth and shall file an affidavit in which the surety shall describe the property by which the surety proposes to secure the bond. The provisions of this paragraph (1) shall not apply to a surety who posts a full cash bond.
- (2) No attorney at law, sheriff, deputy sheriff, judge, clerk, deputy clerk, trial commissioner, master commissioner or pretrial release officer shall be taken as surety on any bail bond, including bail on appeal under Rule 12.78.
- (3) No bond shall be approved unless the surety thereon appears to be qualified.

RCr 4.32 Sufficiency of sureties

If there is only one (1) surety, that surety shall be worth the amount specified in the bond exclusive of the amount of any other undertaking on which the surety may be principal or surety, and exclusive of property exempt from execution and over and above liabilities. If there are several sureties they shall in the aggregate be worth that amount exclusive of the amount of other undertakings, and of the exemptions and liabilities mentioned above. Any person authorized to take bail shall refuse any surety offered in a bail bond to be taken by that person who is, in that person's opinion, insufficient.

RCr 4.34 Justification of security

- (1) If the bail bond is secured by real estate, the defendant or surety must file with the bond a sworn schedule and a statement of value from the property valuation administrator of the county in which the real estate is located. The sworn schedule shall contain:
 - (a) legal description of the real estate;
 - (b) description of any and all encumbrances on the real estate including the amount of each and the holder thereof; and
 - (c) market value of the unencumbered equity owned by the affiant or affiants.
- (2) If the bail bond is secured by stocks and bonds, the defendant or surety must file with the bond a sworn schedule which shall contain:
 - (a) descriptions sufficient for identification of the stocks and bonds deposited; (b) present market value of each stock and bond; and (c) total market value of stocks and bonds listed.
- (3) In either case, unless the defendant or the defendant's relative is using his or her own property as security, a statement must be filed stating that the property has not been used or accepted as security on a bail bond in the Commonwealth during the twelve months preceding the date of the bond.
- (4) The sworn schedule in either case must further include a statement that affiant or affiants are the sole owners of the unencumbered equity; that the property is not exempt from execution; and that the property is security for the appearance of the defendant in accordance with the conditions of release imposed by the court.
- (5) If a bail bond is to be secured by real estate, the unencumbered equity of the real estate must have a fair market value at least double the amount of the bail bond.

RCr 4.36 Recording of a real property bond

A certified copy of the bail bond and a schedule of real estate accompanied by necessary recording fee which shall be paid by the defendant or sureties must be filed by the clerk of court requiring bail bond in the office of the county clerk of each county in which the real estate is situated. The county court clerk must record copies of the bail bond and schedule and the Commonwealth then has lien upon the real estate. Such records shall be kept in the miscellaneous encumbrance book provided by county court clerk.

RCr 4.38 Mandatory review after twenty-four hours

If a defendant continues to be detained 24 hours without arraignment from the time of the imposition of conditions of release because of inability to meet such conditions, the judge that imposed the conditions must review them on defendant's written application or may do so on his/her own motion. If the judge declines to modify them, the judge shall record in writing the reasons for that decision. It shall be the duty of the pretrial release officer to inform the judge that set the initial condition of release of those defendants in custody who are not released from jail after 24 hours and who have not been arraigned.

RCr 4.40 Review of conditions of release

- (1) The defendant or the Commonwealth may by written motion apply for a change of conditions of release at any time before the defendant's trial. The motion shall state the grounds on which the change is sought. The moving party may request an adversary hearing on the motion, and is entitled to such hearing the first time the moving party requests it. Requests for adversary hearings made in subsequent motions for review of conditions of release shall lie within the discretion of the court.
- (2) Whenever the court denies the specific relief requested, the judge shall record in writing the reasons for so doing.
- (3) Motion for change of conditions of release must be in good faith. Where the defendant has appeared when required at previous proceedings in the case, the Commonwealth must demonstrate by clear and convincing evidence the need to modify existing conditions of release.

RCr 4.42 Change of conditions of release; bond forfeiture

- (1) If at any time following the release of the defendant and before the defendant is required to appear for trial the court is advised of a material change in the defendant's circumstances or that the defendant has not complied with all conditions imposed upon his or her release, the court having jurisdiction may order the defendant's arrest and require the defendant or the defendant's surety or sureties to appear and show cause why the bail bond should not be forfeited or the conditions of release be changed, or both.
- (2) A copy of said order shall be served on the defendant and the defendant's surety or sureties. The court shall order the arrest of the defendant only when it has good cause to believe the defendant will not appear voluntarily upon notice to appear.

- (3) Where the court is acting on advice that the defendant has not complied with all conditions imposed upon his or her release, the court shall not change the conditions of release or order forfeiture of the bail bond unless it finds by clear and convincing evidence that the defendant has willfully violated one of the conditions of his or her release or that there is a substantial risk of nonappearance.
- (4) Where the court is acting on advice of a material change in the defendant's circumstances, it shall not change the conditions of release or order forfeiture of the bail bonds unless it finds by clear and convincing evidence that a material change in circumstances exists and that there is a substantial risk of nonappearance.
- (5) Before the court may make the findings required for change of conditions or forfeiture of bail under this rule, the defendant and the defendant's surety or sureties shall be granted an adversary hearing comporting with the requirements of due process. Whenever the court changes conditions of release (except upon motion of the defendant) or orders forfeiture of bail, it must furnish the defendant and the defendant's surety or sureties with written reasons for so doing.

RCr 4.43 Appellate review of bail; habeas corpus

- (1) Any defendant aggrieved by a decision of the circuit court on a motion to change the conditions of bail may appeal that decision to the Court of Appeals pursuant to the following procedures:
 - (a) The notice of appeal from the order of the trial court shall be filed in the manner and within the time fixed by Rule 12.04.
 - (b) Upon the filing of the notice of appeal the clerk of the circuit court shall prepare and certify the original or a copy of such portion of the record as relates to the question of bail and is needed for the purpose of deciding the issue on appeal. The abbreviated record shall be filed with the clerk of the appellate court within 30 days after filing of the notice of appeal.
 - (c) The appellant shall within 15 days after filing of the record file the statement of appeal and brief required by [Civil Rules 76.06](#) and [76.12](#). The brief shall be abbreviated and shall not exceed five (5) double-spaced typewritten pages. It shall be served on the local Commonwealth's attorney and on the attorney general. No brief shall be required of the Commonwealth, but the Commonwealth may file a brief within 10 days after the date the appellant's statement of appeal and brief were filed, such brief not to exceed five (5) double-spaced typewritten pages. No other briefs shall be filed unless requested by the appellate court.
 - (d) The appeal shall stand submitted for final disposition 10 days after the date on which the appeal was perfected by the appellant. The court shall proceed immediately to a hearing thereof and complete the same as soon as practicable.
 - (e) Neither the filing of the notice of appeal nor the pendency of the appeal shall stay further proceedings in the prosecution.
- (2) The writ of habeas corpus remains the proper method for seeking circuit court review of the action of a district court respecting bail.

- (3) This Rule 4.43 shall apply only to appellate review of bail conditions prior to entry of a judgment of conviction. After entry of a judgment of conviction, appellate review of bail on appeal shall be by intermediate motion filed pursuant to [RCr 12.82](#) in the appeal of the conviction.

RCr 4.44 Record of discharge

- (1) When the court orders a discharge upon the defendant's compliance with conditions of release, the clerk of the court that required a bail bond or released on personal recognizance shall make a record of the discharge and the date of discharge.
- (2) Upon discharge of the defendant's and surety's obligations under the bail bond, the court shall return all stocks and bonds and cash deposited with the court except when a 10% deposit was made. In such cases the clerk of court shall retain 10% of the 10% deposit, in no event less than five dollars.
- (3) If the defendant was released on a property bond, the clerk of the court requiring the bond shall notify in writing the county court clerk of each county where the real estate is situated. The lien on real estate must be discharged and the release recorded on the margin by that county court clerk.

RCr 4.46 Application of deposit to fine or costs

- (1) Upon a final rendition of judgment against the defendant for a fine and costs, or either, in the prosecution of a cause in which money has been deposited as bail by the defendant himself or herself, if the money still remains on deposit and unforfeited, and such fine and costs, or either, have not been paid, such money, or so much thereof as may be necessary, shall be applied to the payment of such fine and costs, or either.
- (2) Upon motion by the defendant, the court may order the amount repayable to the defendant to be paid to the defendant's attorney.

RCr 4.48 Forfeiture of bail

- (1) If the court has ordered forfeiture of bail following a show-cause hearing as described in Rule 4.42(5), or following the willful failure of the defendant to appear in court when required, the court shall serve a copy of the forfeiture order on the defendant and the defendant's surety or sureties at their last-known addresses. If the defendant or the defendant's surety or sureties do not appear within 20 days after service of the order or return of not found and satisfy the court that appearance or compliance by the defendant was impossible and without his or her fault, the court may order judgment against the defendant and the defendant's surety for the amount of the bail or any part thereof and the costs of the proceedings.
- (2) If the declaration of forfeiture is made by a trial court other than the circuit court and the amount of bail is beyond its jurisdiction, or a lien on real estate is involved, the bond shall be filed with the clerk of the circuit court of the county where the amount of forfeiture may be determined and collection proceedings may be so instituted.

- (3) A forfeiture may be set aside upon such conditions as the forfeiting court may impose if it appears that justice does not require its enforcement.
- (4) When bail is forfeited, the clerk of the court shall enter a record of the forfeiture and date of forfeiture. When real estate is affected, the clerk shall forthwith send notice of the forfeiture and date thereof to the county clerk of each county where the real estate is situated. The county clerk of the latter county shall make an appropriate entry at the end or on the margin of the record of the Commonwealth's lien on the real estate.

RCr 4.50 Exoneration of bond at the request of surety; Surrender the Defendant

- (1) At any time before forfeiture, any surety or any party acting at the request of the surety, may move the court before which the defendant has been held to answer, for exoneration from liability on the bond or recognizance and that any money or bonds that have been deposited as bail be returned to the surety. The motion must be in writing and served upon all parties.
- (2) After a hearing upon the motion, for good cause shown, the court may exonerate the surety or sureties, subject to the interests of any valid lienholder, from liability on the bond or recognizance. Any money or bonds that have been deposited as bail shall be returned to the surety or sureties once the defendant is remanded to custody or released on such conditions required by the court.

RCr 4.52 Judgment against surety

- (1) By entering into a bail bond (including bail on appeal under Rules 12.78 to 12.82, inclusive) the surety submits himself or herself to the jurisdiction of the court or courts in which the charge is or may thereafter be pending. The surety's liability may be enforced on motion without an independent action. The motion shall be served on the surety at the surety's address which shall be shown on the bond, or at the surety's last known address, at least 20 days prior to the date of hearing thereon. In the event of bail pending appeal, for purposes of this Rule 4.52 the court from which the appeal is or may be taken shall be considered to be the court in which the charge is pending.
- (2) After entry of judgment the court for sufficient cause may remit wholly or in part the sum specified in the bail bond.
- (3) Unless there are reasonable grounds to believe that the principal has caused himself or herself to be incarcerated elsewhere, or elects to remain under such detention though able to secure his or her release through bail or otherwise, for the purpose of delaying or avoiding appearance, the court shall not declare a forfeiture of bail (or, having declared a forfeiture, shall remit the amount thereof) if it is proved that the defendant's appearance is prevented by detention in a jail or penitentiary outside the Commonwealth or in custody of the United States. An affidavit of the jailer, warden or other responsible officer of such jail or penitentiary or appropriate federal officer, shall be adequate evidence of such detention, and other affidavits may be considered as evidence.

RCr 4.54 Continuation of bail

- (1) Except as provided in Rule 5.22 and Rule 12.78, bail taken at any stage of the proceedings shall continue in effect to insure the appearance of the defendant for any and all purposes at all stages of the proceedings, including appeal. In the event a defendant waives the charges to the Grand Jury, or following a preliminary hearing is ordered bound over to the circuit court, control over bail, including any conditions thereof, shall remain with the district court until indictment is returned, at which time control shall pass to the circuit court. Upon the conviction of a defendant, bail may be increased, decreased, revoked, or modified by the trial court without being subject to the hearing requirements of Rule 4.42, and control over bail shall remain with the trial court throughout any appeal.
- (2) Subject to RCr 5.22, bail shall terminate (a) when the principal is acquitted or the prosecution is dismissed; (b) when the principal, following conviction, fails to file a notice of appeal within the time limit under Rule 12.04; (c) when the appeal taken by the defendant is dismissed; or (d) on the effective date of an appellate decision affirming the conviction.
- (3) In the event of a reversal of a conviction by an appellate court granting the defendant a new trial, the defendant shall be entitled to the rights of pretrial release under Rule 4.04 as if upon an initial appearance.
- (4) The efficacy of a bail bond shall not be affected by the fact that the defendant is prosecuted for an alleged offense or offenses different from but arising out of the same occurrence as the charge named in the bail bond.

RCr 4.56 Defects in bond or recognizance

- (1) Neither a bail bond nor a recognizance shall be invalid because of any defects of form, omission, recital, or condition, or because of any other irregularity, provided the official before whom it was entered into was legally authorized to take it, the amount of bail is stated, and it can be ascertained therefrom before which magistrate or court the principal is bound to appear.
- (2) If no day is fixed for the appearance of the defendant, or an impossible day, or a day in vacation, the bond or recognizance shall bind the defendant to appear in court within twenty (20) days from the time the bond is issued to have a date set for his or her appearance at any preliminary proceeding or trial.

RCr 4.58 Credit for incarceration

Any person incarcerated on a bailable offense who does not supply bail or is not otherwise released and against whom a fine is levied on conviction of such offense should be allowed a credit of \$5.00 for each day so incarcerated prior to conviction except that in no case shall the amount so allowed or credited exceed the amount of the fine.

RCr 5.22 Procedure upon failure to indict

- (1) If the defendant has been held to answer pursuant to [RCr 3.14\(1\)](#) and the votes of the grand jurors are insufficient in number to find an indictment as to any one or more charges

or counts presented to the grand jury, the foreperson shall forthwith so report in writing to the circuit court. The circuit court shall thereupon make an order dismissing any such charges or counts without prejudice, discharging the defendant from custody as to any such charges or counts, exonerating the defendant's bail and any conditions thereon as to any such charges or counts or directing a refund of any money or bonds deposited as bail as to any such charges or counts, as the case may be.

- (2) If the defendant has been held to answer pursuant to [RCr 3.14\(1\)](#), and the grand jury finally adjourns without having either indicted such defendant or referred the matter to the next grand jury by a writing filed with the circuit court, the circuit court shall thereupon make an order dismissing all charges or counts against such defendant without prejudice, discharging such defendant from custody as to any such charges or counts; or, if such defendant is free on bail that has not been forfeited, exonerating such defendant's bail and any conditions thereon as to any such charges or counts or directing a refund of any money or bonds deposited as bail as to any such charges or counts, as the case may be.
- (3) In any event, if a defendant has been held to answer, without being indicted, for longer than 60 days from the finding of probable cause pursuant to [RCr 3.14\(1\)](#), the circuit court shall, upon motion, thereupon make an order discharging such defendant from custody; or, if such defendant is free on bail that has not been forfeited, exonerating such defendant's bail and any conditions thereon or directing a refund of any money or bonds deposited as bail, as the case may be.
- (4) Failure of the grand jury to return an indictment against a defendant does not prevent any charge against such defendant from being submitted to another grand jury.

RCr 12.78 Bail on appeal

- (1) Bail may be allowed by the trial judge pending appeal notwithstanding that service of the sentence has commenced, except when the defendant has been sentenced to death or life imprisonment.
- (2) When a person has been convicted of an offense and only a fine has been imposed the amount of bail shall not exceed the amount of the fine and costs.
- (3) The applicable provisions governing bail shall apply to bail on appeal.
- (4) The court allowing bail may at any time revoke the order admitting the defendant to bail.

RCr 12.80 Execution and approval of bond

The bond for bail pending appeal may be given at or after the time of filing the notice of appeal. The stay is effective when the bond is accepted by the court or the clerk, and the clerk shall give prompt notice of such acceptance to the attorney for the Commonwealth.

KENTUCKY REVISED STATUTES (KRS) RELATING TO BAIL

KRS 24A.110 Criminal jurisdiction

KRS 27A.096 Judicial guidelines for pretrial release of moderate-risk or high-risk defendants

KRS 27A.097 Evidence-based practices to be used in supervision and intervention programs – Standards – Funding restrictions

KRS 27A.360 Court disposition level relating to bond and pretrial release

KRS 30A.060 Clerk to prepare bonds and to refuse insufficient surety; authorization for preparation and acceptance of bail bonds by other public officers or employees

KRS 186.260 Arrests and bail for violations

KRS 196.285 Intensive secured substance abuse recovery program

KRS 218A.135 Pretrial release of defendant charged with offense for which conviction may result in presumptive probation

KRS 222.203 Arrest—Citation—Jail—Bail—Pretrial Release

KRS 222.204 Conditions of bail – Liability of facility releasing defendant **KRS 281.765** Enforcement of motor vehicle laws; arrests; bail bonds **KRS 419.020** Issuance of writs

KRS 419.040 Bond

KRS 419.130 Appeal; supersedeas

KRS 431.015 Citation for misdemeanor – Arrest for certain misdemeanors – Failure to appear

KRS 431.017 Appearance bond of prosecuting witness

KRS 431.021 Guaranteed arrest bond certificate of surety company to be accepted in lieu of cash bail in traffic cases

KRS 431.060 Felonies, misdemeanors and violations defined

KRS 431.062 Detention in jail prior to trial prohibited for certain offenses - Exceptions

KRS 431.063 Human trafficking victim not be incarcerated pending trial – Exceptions **KRS 431.064** Pretrial release of person arrested for assault, sexual offense, or violation of protective order – Conditions – Hearing – Victim entitled to copy of conditions of release – Entry of conditions into Law Information Network – Penalty

KRS 431.066 Pretrial release and bail options – Assessment of flight risk, likelihood of appearing at trial, and risk of danger – Credit toward bail for time in jail

KRS 431.067 Participation in global positioning monitoring system program as condition of pretrial release

KRS 431.068 Use of alcohol monitoring device as condition of pretrial release

KRS 431.076 Expungement of criminal records for those found not guilty of crimes or for whom charges have been dismissed with prejudice.

KRS 431.078 Expungement of misdemeanor and violation records of convictions and dismissed or amended charges

KRS 431.210 Return of property stolen if accused does not appear

KRS 431.4505 Modification of uniform citation to include alcohol concentration and testing information

KRS 431.510 Prohibitions

KRS 431.515 Pretrial release investigation and services – Provision of information on services and programs for combat veterans

KRS 431.517 Authorization for home incarceration as a form of pretrial release – Court ordered participation in global positioning monitoring system – Costs

KRS 431.518 Pretrial release of felony drug offender or felony offender with a history of substance abuse – Conditions

KRS 431.520 Release on personal recognizance or unsecured bail bond – Conditions of release **KRS 431.523** Bail for nonresidents charged with driving under the influence

KRS 431.525 Conditions for establishing amount of bail – Pilot projects for controlled substance or alcohol abuse testing

KRS 431.530 Deposit of bail security – Payments into public advocate special account – Return of deposit when innocent or charges dropped or dismissed

KRS 431.5305 Jailer permitted to prepare or accept bail bond – Fee – Reporting

KRS 431.531 Statement of collections to be filed – Funds to be sent to State Treasury – Certification of amounts and publication of annual audit by Administrative Office of the Courts

KRS 431.532 Bail deposits by person other than defendant

KRS 431.535 Cash, stocks, bonds, or real estate as security for bail

KRS 431.540 Uniform schedule of amounts of bail in designated nonviolent Class D felonies, misdemeanors, and violations

KRS 431.545 Forfeiture of bail; Prosecution

KRS 431.550 Penalty for KRS 431.510 to 431.545 **KRS**

432.270 No bail permitted for contempt

KRS 440.020 Confinement of captured convict

KRS 440.030 Escape of person from custody; warrant for capture

KRS 440.270 Person charged with crime in other state may be arrested in this state; procedure; warrant required

KRS 440.280 Arrest may be made without warrant; conditions; procedure

KRS 440.290 Commitment in jail pending Governor's warrant issued on requisition **KRS 440.300** Bail permitted; conditions

KRS 440.310 Failure to arrest under warrant of Governor; discharge; recommitment **KRS 440.320** Forfeiture of bond

KRS 441.045 Rules for jails – Inspection by county judge/executive – Medical, dental and psychological care for prisoners – Funds not to lapse – Fee for use of jail medical facilities by state prisoner – Payments to counties not to exceed Medicaid rate – Transportation of prisoners for health care – Responsibility for health care expenses **KRS 446.010** Definitions for statutes generally

KRS 452.260 Proceedings when defendant is in custody or on bail

KRS 532.200 Definitions for KRS 532.210 to 532.250

KRS 532.210 Petition – Study of record – Order

KRS 532.220 Conditions of home incarceration

KRS 532.230 Ineligibility

KRS 532.240 Responsibilities of persons held in home incarceration **KRS 532.245** Credit for time spent in pretrial home incarceration

KRS 532.250 Monthly list of incarcerated provided to local law enforcement agencies **KRS**

534.020 Methods of imposing fines

KRS 534.030 Fines for felonies

KRS 534.040 Fines for misdemeanors and violations

KRS 534.060 Response to nonpayment of fines

KRS 524.130 Unauthorized practice of law

KRS 533.015 Alternatives to incarceration

KRS 534.070 Incarceration for failure to pay fine or court costs or failure to appear in court – Daily credit against fine or court costs for time served

KRS 635.020 Criteria for determining how child is to be tried

KRS 24A.110 Criminal jurisdiction

- (1) The District Court shall have exclusive jurisdiction to make final disposition of all criminal matters, including violations of county, urban-county, or city ordinances or codes, except: (a) Offenses denominated by statute as felonies or capital offenses; and (b) Offenses punishable by death or imprisonment in the penitentiary.
- (2) The District Court has exclusive jurisdiction to make a final disposition of any charge or a public offense denominated as a misdemeanor or violation, except where the charge is joined with an indictment for a felony, and all violations of county, urban-county, or city ordinances and, prior to trial, to commit the defendant to jail or hold him to bail or other form of pretrial release.
- (3) The District Court has, concurrent with Circuit Court, jurisdiction to examine any charge of a public offense denominated as a felony or capital offense or which may be punished by death or imprisonment in the penitentiary and to commit the defendant to jail or hold him to bail or other form of pretrial release.
- (4) The District Court may, upon motion and for good cause shown, reduce a charge of a felony to a misdemeanor in accordance with the Rules of Criminal Procedure.

KRS 27A.096 Judicial guidelines for pretrial release of moderate-risk or high-risk defendants.

- (1) The Supreme Court shall establish recommended guidelines for judges to use when ordering pretrial release and monitored conditional release for defendants whose pretrial risk assessments indicate that they are moderate or high risk and would otherwise be ordered to a local correctional facility while waiting for trial.
- (2) The Supreme Court shall establish recommended guidelines for judges to use to determine whether defendants whose pretrial risk assessments indicate that they are moderate or high risk are eligible for pretrial supervision.
- (3) Judges shall consider the guidelines established by the Supreme Court pursuant to this section when setting terms of pretrial supervision.

KRS 27A.097 Evidence-based practices to be used in supervision and intervention programs -- Standards -- Funding restrictions.

- (1) As used in this section, "evidence-based practices" means intervention programs and supervision policies, procedures, programs, and practices that scientific research demonstrates

reduce instances of a defendant's failure to appear in court and criminal activity among defendants when implemented competently.

- (2) In order to increase the effectiveness of supervision and intervention programs funded by the state and provided to defendants, the Supreme Court shall require that a vendor or contractor providing supervision and intervention programs for adult criminal defendants use evidencebased practices.
- (3) The Supreme Court shall measure the effectiveness of supervision and intervention programs provided by vendors or contractors and demonstrate that the programs have a documented evidence base and have been evaluated for effectiveness in reducing a defendant's failure to appear in court and criminal activity.
- (4) The Supreme Court shall require, at a minimum, the following:
 - (a) A process for reviewing the objective criteria for evidence-based practices established by the vendor or contractor providing the program;
 - (b) A process for auditing the effectiveness of the program;
 - (c) An opportunity for programs that do not meet the criteria based on the audit results to improve performance; and
 - (d) A mechanism to defund any program provided by a vendor or contractor that does not meet the criteria upon a second audit.
- (5) Beginning July 1, 2012, twenty-five percent (25%) of state moneys expended on supervision and intervention programs for pretrial defendants shall be for programs that are in accordance with evidence-based practices. Beginning July 1, 2014, fifty percent (50%) of state moneys expended on supervision and intervention programs shall be for programs that are in accordance with evidence-based practices. Beginning July 1, 2016, and thereafter, seventyfive percent (75%) of state moneys expended on supervision and intervention programs shall be for programs that are in accordance with evidence-based practices.

KRS 27A.360 Court disposition level relating to bond and pretrial release The court disposition level of the system shall consist of at least the following information as relates to bond and pretrial release:

- (1) Whether or not the defendant was released on bail or pretrial release;
- (2) If released on bail:
 - (a) The amount of the bail;
 - (b) Whether the bail was cash, property, a percentage of cash bail, secured, unsecured, or otherwise;
 - (c) Whether the conditions of bail were satisfied; and
 - (d) Whether or not the bail was returned, forfeited, credited to the public advocate or otherwise;
- (3) If released on any other form of pretrial release:
 - (a) Whether or not released on own recognizance;
 - (b) Whether release was upon conditions, if so what conditions; and (c) Whether the conditions of release were satisfied.

KRS 30A.060 Clerk to prepare bonds and to refuse insufficient surety; authorization for preparation and acceptance of bail bonds by other public officers or employees

- (1) Each clerk shall prepare in a proper manner every bond to be taken by or given before him or his court.
- (2) The clerk shall refuse any surety offered in a bond to be taken by him who is, in his opinion, insufficient.
- (3) The clerk shall prepare bail bonds as required by subsection (1) of this section; however, additional public officials and their employees shall be authorized by rule or order of the Chief Circuit Judge to prepare and accept bail bonds to be taken by the clerk or for his court. Such bail bonds shall have the same validity as if prepared or taken by the clerk.

KRS 186.260 Arrests and bail for violations

KRS 281.765 shall apply in the case of arrests and bail for a violation of any of the provisions of KRS 186.020 to 186.260.

KRS 196.285 Intensive secured substance abuse recovery program.

- (1) The department shall develop an intensive secured substance abuse recovery program utilizing existing resources or by contract to house and care for persons suffering from substance abuse who have been charged with a felony offense.
- (2) The program shall accept persons referred to it under KRS 533.250 and 533.251.
- (3) Persons may agree to be ordered into the program for a period of not less than ninety (90) days and not more than three hundred sixty-five (365) days. No person shall be involuntarily ordered into the program, a commitment shall not occur before the court has considered an evaluation of the defendant's treatment needs and conducted a hearing where the defendant may appear with counsel with an opportunity to present evidence on his or her own behalf, and persons in the program may petition the court to review the program's determination as to the length of time the person is to remain in the program or to issue an order to leave the program, which the court shall grant upon request, at any time. However, that departure shall constitute a material breach of any agreement to hold the person's case in abeyance or of the person's pretrial diversion agreement. The court shall revoke a defendant's program commitment over the defendant's objection prior to the expiration of the commitment period only pursuant to an order of the committing court issued after the court has conducted a hearing on the matter where the defendant may appear with counsel and present evidence on his or her behalf.
- (4) The department shall locate the program in a secure facility with security standards comparable to those found in a minimum security correctional institution operated by the department.

- (5) The program shall be capable of concurrently housing no fewer than two hundred (200) persons. The department shall have regulatory authority, when the program is at or near capacity, to prioritize admissions to the program.
- (6) The program's recovery component shall be designed to serve the committed person's substance abuse condition, and to provide the person with the skills and training needed to prevent the person from engaging in substance abuse upon release from the program. The program shall provide each person leaving the program with an aftercare plan, which shall include a referral to a local substance abuse provider capable of providing a level of continuing substance abuse care appropriate to the released person's needs. In designing the program, the department shall consult with and may contract with the Division of Behavioral Health.

KRS 218A.135 Pretrial release of defendant charged with offense for which conviction may result in presumptive probation.

- (1) Any statute to the contrary notwithstanding, a defendant charged with an offense under this chapter for which a conviction may result in presumptive probation shall be placed on pretrial release on his or her own recognizance or on unsecured bond by the court subject to any conditions, other than bail, specified in KRS 431.515 to 431.550.
- (2) The provisions of this section shall not apply to a defendant who is found by the court to present a flight risk or to be a danger to others.
- (3) If a court determines that a defendant shall not be released pursuant to subsection (2) of this section, the court shall document the reasons for denying the release in a written order.

KRS 222.203 Arrest -- Citation -- Jail -- Bail -- Pretrial release.

- (1) A peace officer may make an arrest for a violation of KRS 222.202.
- (2) Any peace officer who arrests a person for violation of KRS 222.202 shall take him to jail. A peace officer may issue a citation and may take the person to a facility authorized by county or city ordinance agreeing to care for the person. If the person is jailed, at the jail it shall be determined if the person has committed a previous offense under KRS 222.202.
- (3) A citation shall be issued to such person showing thereon the date of such person's appearance in court and whether the offense is repayable or not.
- (4) Unless it has been determined that the defendant has had two (2) prior convictions for violation of KRS 222.202 within the previous twelve (12) months, the citation shall be marked as repayable.
- (5) If it is determined that this is a third or subsequent offense, then the provisions of KRS Chapter 431 with regard to bail and pretrial release shall apply.

KRS 222.204 Conditions of bail -- Liability of facility releasing defendant.

- (1) A person who has been arrested and placed in jail prior to trial for violation of KRS 222.202 and has not had two (2) prior convictions in the previous twelve (12) months for violation of KRS 222.202 shall be released as set forth by the Supreme Court Rule of Criminal Procedure uniform schedule of bail:

- (a) To an adult who is willing to accept responsibility for the defendant through a signature verification on a form determined by the Administrative Office of the Courts;
 - (b) If he pays the requisite amount of bail on a bail schedule issued by the court;
 - (c) At such time as he is able to safely care for himself but in no event shall he be detained for more than eight (8) hours following his arrest;
 - (d) If he is ordered released by a court of competent jurisdiction; or (e) Unless such person's release is precluded by other provisions of law.
- (2) The jail or facility authorized by county or city ordinance agreeing to care for the person releasing the defendant shall be considered as acting in good faith and shall not be liable for subsequent acts of the defendant upon release.

KRS 281.765 Enforcement of motor vehicle laws; arrests; bail bonds

Any peace officer, including sheriffs and their deputies, constables and their deputies, police officers and marshals of cities or incorporated towns, county police or patrols, and special officers appointed by any agency of the Commonwealth of Kentucky for the enforcement of its laws relating to motor vehicles and boats or boating, now existing or hereafter enacted, shall be authorized and it is hereby made the duty of each of them to enforce the provisions of this chapter and to make arrests for any violation or violations thereof, and for violations of any other law relating to motor vehicles and boating, without warrant if the offense be committed in his presence, and with warrant or summons if he does not observe the commission of the offense. When in pursuit of any offender for any offense committed within his jurisdiction, any such officer may follow and effect an arrest beyond the limits of his jurisdiction. If the arrest be made without warrant, the accused may elect to be immediately taken before the nearest court having jurisdiction, whereupon it shall be the duty of the officer to so take him. If the accused elects not to be so taken, then it shall be the duty of the officer to require of the accused a bail-bond in a sum not less than one hundred dollars (\$100), conditioned that the accused binds himself to appear in the court of jurisdiction at the time fixed in the bond, not however in any case later than six (6) days from the day of arrest. In case the arrested person fails to appear on the day fixed, the bond shall be forfeited in the manner as is provided for the forfeiture of bonds in other cases. No officer shall be permitted to take a cash bond. The officer making the arrest and taking the bond shall report the same to the court having jurisdiction within eighteen (18) hours after taking such bond.

KRS 419.020 Issuance of writs

The writ of habeas corpus shall be issued upon petition on behalf of anyone showing by affidavit probable cause that he is being detained without lawful authority or is being imprisoned when by law he is entitled to bail. The writ may be issued by any Circuit Judge on any day at any time and his power to issue such writs shall be coextensive with the Commonwealth.

KRS 419.040 Bond

The judge granting the writ may require bond conditioned that the person detained shall not escape by the way, and for the payment of costs. The bond shall be filed with the record of the

proceedings, and shall be sued on by the Commonwealth for the benefit of anyone injured by the breach of it.

KRS 419.130 Appeal; supersedeas

(1) Any party to a hearing on a writ may appeal to the Court of Appeals by filing with the clerk of the court, within thirty (30) days after the entry of the judgment, the original record and a transcript of the evidence, together with a notice of appeal, which notice shall be served on the other parties at least two (2) days before the appeal is filed. Upon the filing of the appeal the clerk shall immediately deliver the papers to the Chief Judge.

(2) If the judgment in a habeas corpus proceeding orders the release of the person detained, any party may have the judgment stayed until the appeal is filed by notifying the judge rendering the judgment that he intends to appeal and upon complying with such terms as to bond or otherwise as the judge deems proper for the security of the person detained. The Court of Appeals may continue, modify or set aside the stay pending the appeal. The appellant may be required to give security for costs.

KRS 431.015 Citation for misdemeanor -- Failure to appear.

- (1) (a) KRS 431.005 to the contrary notwithstanding, and except as provided in paragraphs (b), (c), and (d) of this subsection, a peace officer shall issue a citation instead of making an arrest for a misdemeanor committed in his or her presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.
- (b) A peace officer may make an arrest instead of issuing a citation for a misdemeanor committed in his or her presence if the misdemeanor is:
1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010;
 2. An offense in which the defendant poses a risk of danger to himself, herself, or another person; or
 3. An offense in which the defendant refuses to follow the peace officer's reasonable instructions.
- (c) A peace officer shall make an arrest for violations of protective orders issued pursuant to KRS 403.715 to 403.785 or an order of protection as defined in KRS 456.010.
- (d) A peace officer may make an arrest or may issue a citation for a violation of KRS 508.030 which occurs in the emergency room of a hospital pursuant to KRS 431.005(1)(f).
- (2) A peace officer may issue a citation instead of making an arrest for a violation committed in his or her presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or 525.070 committed in his or her presence or a violation of KRS 189A.010, not committed in his or her presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

- (3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he or she will not appear, a complaint may be made before a judge and a warrant shall issue.
- (4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

KRS 431.017 Appearance bond of prosecuting witness

A judge, trial commissioner, or other officer issuing an arrest warrant based upon the testimony or allegations of a prosecuting witness may require the witness to post a bond in favor of the Commonwealth to secure the attendance of that witness in court in all matters relating to that particular arrest warrant. The amount of the bond shall be twenty-five dollars (\$25). In the event that the prosecuting witness fails to appear and does not present valid reason therefor, the trial court shall order the forfeiture of the bond. This section shall not apply to any appeal or postconviction proceeding.

KRS 431.021 Guaranteed arrest bond certificate of surety company to be accepted in lieu of cash bail in traffic cases.

- (1) A guaranteed arrest bond certificate presented by the person whose signature appears thereon shall be accepted in lieu of cash bail in an amount not to exceed two hundred dollars (\$200) as a bail bond to guarantee the appearance of such person in any court of this Commonwealth, at the time required by such court, when he is arrested for violation of any law of this Commonwealth or traffic ordinance of any municipality therein relating to the operation of a motor vehicle. A guaranteed arrest bond certificate so presented as a bail bond is subject to the same forfeiture and enforcement provisions as a bail bond or cash bail, but is not subject to Rules 4.30 and 4.34 of the Kentucky Rules of Criminal Procedure. However:
 - (a) The violation must have been committed prior to the expiration date shown on the guaranteed arrest bond certificate, and
 - (b) A guaranteed arrest bond certificate may not be accepted when a person is arrested for violation of KRS 189A.010 or KRS Chapter 281.
- (2) As used in this section, "guaranteed arrest bond certificate" means a printed card or other certificate issued by an association to any of its members, which is signed by the member and contains a printed statement that such association and a surety company licensed to do business in this Commonwealth:
 - (a) Guarantee the appearance of the person whose signature appears on the card or certificate, and
 - (b) Will, in the event of the failure of such person to appear in court at the time set for appearance, pay any fine or forfeiture imposed upon such person in an amount not to exceed two hundred dollars (\$200).

KRS 431.060 Felonies, misdemeanors and violations defined.

Offenses are either felonies, misdemeanors, or violations:

- (1) Offenses punishable by death or confinement in the penitentiary, whether or not a fine or other penalty may also be assessed, are felonies.
- (2) Offenses punishable by confinement other than in the penitentiary, whether or not a fine or other penalty may also be assessed, are misdemeanors.
- (3) Offenses punishable by a fine only or by any other penalty not cited herein, whether in combination with a fine or not, are violations.

KRS 431.062 Detention in jail prior to trial prohibited for certain offenses -- Exceptions.

- (1) No person shall be detained in jail prior to trial for any offense defined in KRS 431.060, 500.080, or 532.020 as a violation unless:
 - (a) He has previously failed to make a court appearance required in connection therewith; or (b) Is a fugitive from justice.
- (2) This section shall not apply to the offenses listed in KRS 431.015 or 222.202.

KRS 431.063 Human trafficking victim not be incarcerated pending trial – Exceptions. A victim of human trafficking shall not be held in a detention center, jail, or other secure facility pending trial for an offense arising from the human trafficking situation, except where the incarceration is found to be the least restrictive alternative to securing the appearance of that person before the court or the release of the person under any other reasonable condition would be a clear threat to public safety.

KRS 431.064 Pretrial release of person arrested for assault, sexual offense, or violation of protective order -- Conditions -- Hearing -- Victim entitled to copy of conditions of release - Entry of conditions into Law Information Network -- Penalty.

- (1) In making a decision concerning pretrial release of a person who is arrested for a violation of KRS Chapter 508 or 510, or charged with a crime involving a violation of an order of protection as defined in KRS 403.720 and KRS 456.010, the court or agency having authority to make a decision concerning pretrial release shall review the facts of the arrest and detention of the person and determine whether the person:
 - (a) Is a threat to the alleged victim or other family or household member; and (b) Is reasonably likely to appear in court.
- (2) Before releasing a person arrested for or charged with a crime specified in subsection (1) of this section, the court shall make findings, on the record if possible, concerning the determination made in accordance with subsection (1) of this section, and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence or abuse and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include:
 - (a) An order enjoining the person from threatening to commit or committing acts of domestic violence or abuse against the alleged victim or other family or household member;
 - (b) An order prohibiting the person from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, either directly or indirectly;

- (c) An order directing the person to vacate or stay away from the home of the alleged victim and to stay away from any other location where the victim is likely to be;
 - (d) An order prohibiting the person from using or possessing a firearm or other weapon specified by the court;
 - (e) An order prohibiting the person from possession or consumption of alcohol or controlled substances;
 - (f) Any other order required to protect the safety of the alleged victim and to ensure the appearance of the person in court; or
 - (g) Any combination of the orders set out in paragraphs (a) to (f) of this subsection.
- (3) If conditions of release are imposed, the court imposing the conditions on the arrested or charged person shall:
 - (a) Issue a written order for conditional release; and
 - (b) Immediately distribute a copy of the order to pretrial services.
 - (4) The court shall provide a copy of the conditions to the arrested or charged person upon release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the arrested or charged person has notice of the conditions.
 - (5) If conditions of release are imposed without a hearing, the arrested or charged person may request a prompt hearing before the court to review the conditions. Upon request, the court shall hold a prompt hearing to review the conditions.
 - (6) The victim, as defined in KRS 421.500, of the defendant's alleged crime, or an individual designated by the victim in writing, shall be entitled to a free certified copy of the defendant's conditions of release, or modified conditions of release, upon request to the clerk of the court which issued the order releasing the defendant. The victim or the victim's designee may personally obtain the document at the clerk's office or may have it delivered by mail.
 - (7) The circuit clerk or the circuit clerk's designee, in cooperation with the court that issued the order releasing the defendant, shall cause the conditions of release to be entered into the computer system maintained by the clerk and the Administrative Office of the Courts within twenty-four (24) hours following its filing, excluding weekends and holidays. Any modification of the release conditions shall likewise be entered by the circuit clerk, or the circuit clerk's designee.
 - (8) The information entered under this section shall be accessible to any agency designated by the Department of Kentucky State Police as a terminal agency for the Law Information Network of Kentucky.
 - (9) All orders issued under this section which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts. If the conditions of pretrial release are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.
 - (10) Any person who violates any condition of an order issued pursuant to this section is guilty of a Class A misdemeanor.

KRS 431.066 Pretrial release and bail option of verified and eligible defendant-- Assessment of flight risk, likelihood of appearing at trial, and risk of danger -- Credit toward bail for time in jail.

- 1) For purposes of this section, “verified and eligible defendant” means a defendant who pretrial services is able to interview and assess, and whose identity pretrial services is able to confirm through investigation.
- 2) When a court considers pretrial release and bail for an arrested defendant, the court shall consider whether the defendant constitutes a flight risk, is unlikely to appear for trial, or is likely to be a danger to the public if released. In making this determination, the court shall consider the pretrial risk assessment for a verified and eligible defendant along with the factors set forth in KRS 431.525.
- 3) If a verified and eligible defendant poses low risk of flight, is likely to appear for trial, and is not likely to be a danger to others, the court shall order the defendant released on unsecured bond or on the defendant's own recognizance subject to such other conditions as the court may order.
- 4) If a verified and eligible defendant poses a moderate risk of flight, has a moderate risk of not appearing for trial, or poses a moderate risk of danger to others, the court shall release the defendant under the same conditions as in subsection (3) of this section but shall consider ordering the defendant to participate in global positioning system monitoring, controlled substance testing, increased supervision, or such other conditions as the court may order.
- 5) (a) Except as provided in paragraph (b) of this subsection, regardless of the amount of the bail set, the court shall permit the defendant a credit of one hundred dollars (\$100) per day as a payment toward the amount of the bail set for each day or portion of a day that the defendant remains in jail prior to trial. Upon the service of sufficient days in jail to have sufficient credit to satisfy the bail, the defendant shall be released from jail on the conditions specified in this section or in this chapter.
(b) The provisions of paragraph (a) of this subsection shall not apply to:
 1. Any person convicted of, pleading guilty to, or entering an Alford plea to a felony offense under KRS Chapter 510, KRS 529.100 involving commercial sexual activity, KRS 530.020, 530.064(1)(a), 531.310, or 531.320, or who is a violent offender as defined in KRS 439.3401; or
 2. A defendant who is found by the court to present a flight risk or to be a danger to others.
(c) For purposes of this subsection, “a day or portion of a day” means any time spent in a detention facility following booking.
(d) A defendant shall not earn credit pursuant to paragraph (a) of this subsection while also earning credit pursuant to KRS 534.070.
- 6) If a court determines that a defendant shall not be released pursuant to subsection (5) of this section, the court shall document the reasons for denying the release in a written order.
- 7) The jailer shall be responsible for tracking the credit earned by a defendant pursuant to subsection (5) of this section.

KRS 431.067 Participation in global positioning monitoring system program as condition of pretrial release.

When considering the pretrial release of a person whose pretrial risk assessment indicates he or she is a moderate or high risk defendant, the court considering the release may order as a condition of pretrial release that the person participate in a global positioning monitoring system program under the same terms and conditions provided in KRS 431.517 during all or part of the person's period of pretrial release.

KRS 431.068 Use of alcohol monitoring device as condition of pretrial release When considering the pretrial release of a person whose pretrial risk assessment indicates he or she is a moderate-risk or high-risk defendant, the court considering the release may order as a condition of pretrial release that the person use an alcohol monitoring device during all or part of the person's period of pretrial release. All costs associated with the alcohol monitoring device, including administrative and operating costs, shall be paid by the defendant. As used in this section, "alcohol monitoring device" means an electronic device that:

- (1) Tests for alcohol concentration level through scheduled, random, continuous, or ondemand testing;
- (2) Detects and records tampering attempts; and
- (3) Transmits the data by means of either a telephone line or cellular uplink, or records the data for retrieval through methods approved by the court.

KRS 431.076 Expungement of criminal records for those found not guilty of crimes or for whom charges have been dismissed with prejudice.

- (1) A person who has been charged with a criminal offense and who has been found not guilty of the offense, or against whom charges have been dismissed with prejudice, and not in exchange for a guilty plea to another offense, may make a motion, in the District or Circuit Court in which the charges were filed, to expunge all records.
- (2) The expungement motion shall be filed no sooner than sixty (60) days following the order of acquittal or dismissal by the court.
- (3) Following the filing of the motion, the court may set a date for a hearing. If the court does so, it shall notify the county or Commonwealth's attorney, as appropriate, of an opportunity for a response to the expungement motion. In addition, if the criminal charge relates to the abuse or neglect of a child, the court shall also notify the Office of General Counsel of the Cabinet for Health and Family Services of an opportunity for a response to the expungement motion. The counsel for the Cabinet for Health and Family Services shall respond to the expungement motion, within twenty (20) days of receipt of the notice, which period of time shall not be extended by the court, if the Cabinet for Health and Family Services has custody of records reflecting that the person charged with the criminal offense has been determined by the cabinet or by a court under KRS Chapter 620 to be a substantiated perpetrator of child abuse or neglect. If the cabinet fails to respond to the expungement motion or if the cabinet fails to prevail, the

order of expungement shall extend to the cabinet's records. If the cabinet prevails, the order of expungement shall not extend to the cabinet's records.

- (4) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the motion and order the sealing of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records. The court shall order the expunging on a form provided by the Administrative Office of the Courts. Every agency, with records relating to the arrest, charge, or other matters arising out of the arrest or charge, that is ordered to expunge records, shall certify to the court within sixty (60) days of the entry of the expungement order, that the required expunging action has been completed. All orders enforcing the expungement procedure shall also be expunged.
- (5) After the expungement, the proceedings in the matter shall be deemed never to have occurred. The court and other agencies shall delete or remove the records from their computer systems so that any official state performed background check will indicate that the records do not exist. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.
- (6) This section shall be retroactive.

KRS 431.078 Expungement of misdemeanor, violation, and traffic infraction records of conviction and dismissed or amended charges.

- (1) Any person who has been convicted of a misdemeanor or a violation, or a traffic infraction not otherwise classified as a misdemeanor or violation, or a series of misdemeanors, violations, or traffic infractions arising from a single incident, may petition the court in which he was convicted for expungement of his misdemeanor or violation record, including a record of any charges for misdemeanors or violations that were dismissed or amended in the criminal action. The person shall be informed of the right at the time of adjudication.
- (2) Except as provided in KRS 218A.275(8) and 218A.276(8), the petition shall be filed no sooner than five (5) years after the completion of the person's sentence or five (5) years after the successful completion of the person's probation, whichever occurs later.
- (3) Upon the filing of a petition, the court shall set a date for a hearing and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.
- (4) The court shall order expunged all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:
 - (a) The offense was not a sex offense or an offense committed against a child;
 - (b) The person had no previous felony conviction;
 - (c) The person had not been convicted of any other misdemeanor or violation offense in the five (5) years prior to the conviction sought to be expunged;

- (d) The person had not since the time of the conviction sought to be expunged been convicted of a felony, a misdemeanor, or a violation;
 - (e) No proceeding concerning a felony, misdemeanor, or violation is pending or being instituted against him; and
 - (f) The offense was an offense against the Commonwealth of Kentucky.
- (5) Upon the entry of an order to expunge the records, and payment to the circuit clerk of one hundred dollars (\$100), the proceedings in the case shall be deemed never to have occurred; the court and other agencies shall cause records to be deleted or removed from their computer systems so that the matter shall not appear on official state-performed background checks; the persons and the court may properly reply that no record exists with respect to the persons upon any inquiry in the matter; and the person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. The first fifty dollars (\$50) of each fee collected pursuant to this subsection shall be deposited into the general fund, and the remainder shall be deposited into a trust and agency account for deputy clerks.
- (6) Copies of the order shall be sent to each agency or official named therein.
- (7) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.
- (8) This section shall be deemed to be retroactive, and any person who has been convicted of a misdemeanor prior to July 14, 1992, may petition the court in which he was convicted, or if he was convicted prior to the inception of the District Court to the District Court in the county where he now resides, for expungement of the record of one (1) misdemeanor offense or violation or a series of misdemeanor offenses or violations arising from a single incident, provided that the offense was not one specified in subsection (4) and that the offense was not the precursor offense of a felony offense for which he was subsequently convicted. This section shall apply only to offenses against the Commonwealth of Kentucky.
- (9) As used in this section, “violation has the same meaning as in KRS 500.080.
- (10) Any person denied an expungement prior to June 25, 2013 due to the presence of a traffic infraction on his or her record may file a new petition for expungement of the previously petitioned offenses, which the court shall hear and decide under the terms of this section. No court costs or other fees, from the court or any other agency, shall be required of a person filing a new petition under this subsection.

KRS 431.210 Return of property stolen if accused does not appear.

If any person indicted for stealing property, or for having stolen property in his possession, breaks jail, forfeits his recognizance, or otherwise fails to appear for trial at the proper time, the person claiming the property may make a motion in the court in which the indictment is pending for the return of the property to him. The claim shall be supported by the affidavit of the person claiming the property. The motion shall be continued for thirty (30) days before final action is taken. A notice of the motion, served upon the attorney for the Commonwealth, shall be taken as a notice

served upon the person named in the indictment, and shall give the court jurisdiction of the matter. The attorney for the Commonwealth shall defend the motion. A jury shall try the facts, and if it finds in its verdict that the claimant is entitled to the possession of the property, the court shall enter judgment accordingly. The court may enforce the judgment by rule, attachment and imprisonment as in cases of contempt. The costs of the proceedings shall be paid by the claimant, for which he may have judgment and execution against the person stealing the property.

KRS 431.4505 Modification of uniform citation to include alcohol concentration and testing information.

The Justice and Public Safety Cabinet shall modify the uniform citation form to include spaces where the peace officer may include:

- (1) The alcohol concentration in cases of violation of KRS 189A.010; and
- (2) Whether the defendant did take, refused to take, or was unable to take for some reason (to be specified on the citation), the alcohol concentration or drug test or tests specified by the peace officer following an arrest for violation of KRS 189A.010.

KRS 431.510 Prohibitions.

- (1) It shall be unlawful for any person to engage in the business of bail bondsman as defined in subsection (3) of this section, or to otherwise for compensation or other consideration:
 - (a) Furnish bail or funds or property to serve as bail; or
 - (b) Make bonds or enter into undertakings as surety; for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine, imprisonment or death, before any of the courts of this state, including city courts, or to secure the payment of fines imposed and of costs assessed by such courts upon a final disposition.
- (2) Nothing contained herein shall serve to release any bail bondsman heretofore licensed by this state from the obligation of undischarged bail bond liability existing on June 19, 1976.
- (3) "Bail bondsman" shall mean any person, partnership, or corporation engaged for profit in the business of furnishing bail, making bonds or entering into undertakings, as surety, for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine, imprisonment, or death, before any of the courts of this state, or securing the payment of fines imposed and of costs assessed by such courts upon final disposition thereof, and the business of a bail bondsman shall be limited to the acts, transactions, and undertakings described in this subsection and to no other.
- (4) KRS 431.510 to 431.550 shall not be construed to limit or repeal KRS 431.021 or to prevent licensed insurers providing security required by Subtitle 39 of KRS Chapter 304 and nonprofit associations from posting or causing to be posted by licensed insurers security or acting as surety for their insureds or members for an offense arising from the operation of a motor vehicle, provided that such posting of security or acting as surety is merely incidental to the terms and conditions of an insurance contract or a membership agreement and provided further that no separate premium or charge therefor is required from the insureds or members.

KRS 431.515 Pretrial release investigation and services -- Provision of information on services and programs for combat veterans.

- (1) All trial courts in this Commonwealth having jurisdiction of criminal causes shall provide such pretrial release investigation and services as necessary to effectuate the purposes of KRS 431.510 to 431.550, including KRS 431.518, and, where practical, to assist in the earliest possible determination of:
 - (a) Whether a person is a needy person under KRS Chapter 31; and
 - (b) Whether a person has been in combat by asking the question, "Have you served in the National Guard or the United States Armed Forces and been in combat?" during the pretrial release investigation.
- (2) The Supreme Court may by appropriate rule or order establish and provide for such pretrial investigation and release services including, where practical, the taking of financial statements, and the court's determination of whether a person is a needy person as provided in KRS 31.120.
- (3) Pretrial Officers shall give contact information on the Kentucky National Guard Family Services Program within the Kentucky Department of Military Affairs or similar programs which provide a full range of services for combat veterans to any person who states that he or she has been in combat, including an opportunity to call the program during the interview.

KRS 431.517 Authorization for home incarceration as a form of pretrial release -- Court ordered participation in global positioning monitoring system -- Costs.

- (1) Except as provided in this section, home incarceration may be ordered as a form of pretrial release, subject to the conditions imposed by the provisions of KRS 532.200 to 532.250.
- (2) A court ordering home incarceration as a form of pretrial release pursuant to this section may order the defendant to participate in a global positioning monitoring system program during all or part of the time of pretrial release through the use of a county-operated program pursuant to KRS 67.372 and 67.374 and not a program operated by the Department of Corrections pursuant to KRS 532.210 to 532.250.
- (3) A court ordering global positioning monitoring system program participation for a defendant pursuant to this section shall:
 - (a) Require the defendant to pay all or the part of the monitoring costs based on the sliding scale adopted by the Supreme Court of Kentucky as specified in KRS 403.761 and administrative costs for participating in the system;
 - (b) Provide the monitoring system with a written or electronic copy of the conditions of release; and
 - (c) Provide the monitoring system with a contact at the office of the circuit clerk, Commonwealth's attorney, or county attorney, as appropriate, or pretrial release services for reporting violations of the monitoring order.
- (4) A person, county, or other organization may voluntarily agree to pay all or a portion of a defendant's monitoring costs specified in KRS 403.761.

KRS 431.518 Pretrial release of felony drug offender or felony offender with a history of substance abuse -- Conditions.

When considering the pretrial release of a person charged with a felony offense under KRS Chapter 218A or a person charged with a felony offense whose criminal record indicates a history of recent and relevant substance abuse, the court considering the release shall cause the court's pretrial release investigation and services office to have the person screened for recent and relevant substance abuse risk factors. A person's refusal to participate in the screening shall not disqualify the person from being granted pretrial release. If this screening indicates the presence of recent and relevant substance abuse risk factors, the court may order as a condition of pretrial release that the person:

- (1) Undertake any testing ordered by the court under KRS 431.520 or 431.525;
- (2) Participate in an additional assessment of the person's condition;
- (3) Participate in a secular or faith-based treatment or recovery program if one (1) is identified as appropriate to the person as a result of the person's initial assessment or an additional assessment performed under subsection (2) of this section;
- (4) Appear at any subsequent hearing ordered by the court where the person's conditions of pretrial release may be reviewed and modified as the result of any testing performed under subsection (1) of this section, any additional assessment performed under subsection (2) of this section, any additional assessment of the defendant performed by a qualified mental health professional which the defendant may offer for the court's consideration, or the person's compliance with any treatment or recovery plan ordered by the court under subsection (3) of this section; and
- (5) Participate in a global positioning monitoring system program operated by a county pursuant to KRS 67.372 and 67.374 under the same terms and conditions as provided in KRS 431.517, during all or part of the person's period of release pursuant to this section.

KRS 431.520 Release on personal recognizance or unsecured bail bond -- Conditions of release.

Any person charged with an offense shall be ordered released by a court of competent jurisdiction pending trial on his personal recognizance or upon the execution of an unsecured bail bond in an amount set by the court or as fixed by the Supreme Court as provided by KRS 431.540, unless the court determines in the exercise of its discretion that such a release will not reasonably assure the appearance of the person as required, or the court determines the person is a flight risk or a danger to others. When such a determination is made, the court shall, either in lieu of or in addition to the above methods of release, impose any of the following conditions of release:

- (1) Place the person in the custody of a designated person or organization agreeing to supervise him;
- (2) Place restrictions on the travel, association, or place of abode of the person during the period of release;
- (3) Require the execution of a bail bond:

- (a) With sufficient personal surety or sureties acceptable to the court; in determining the sufficiency of such surety, or sureties, the court shall consider his character, his place of residence, his relationship with the defendant, and his financial and employment circumstances; or
 - (b) With the ten percent (10%) deposit as provided in KRS 431.530; provided that if the defendant is permitted to earn credit toward bail pursuant to KRS 431.066, that credit shall be applied to the ten percent (10%) deposit; or
 - (c) With the deposit of cash equal to the amount of the bond or in lieu thereof acceptable security as provided in KRS 431.535;
- (4) If the person's record indicates a history of controlled substance or alcohol abuse:
- (a) order the person to submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court with the fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. If the person is declared indigent, the testing fee may be waived by the court. The Administrative Office of the Courts shall establish pilot projects to implement the provisions of this subsection; or
 - (b) Order the person to use an alcohol monitoring device, as defined in KRS 431.068. All costs associated with the device, including administrative and operating costs, shall be paid by the defendant. If the court determines that the defendant is indigent, and a person, county, or other organization has not agreed to pay the costs for the defendant in an attempt to reduce incarceration expenses and increase public safety, the court shall consider other conditions of release provided in this section;
- (5) (a) During all or part of a person's period of release pursuant to this section, order the person to participate in a global positioning monitoring system program operated by a county pursuant to KRS 67.372 and 67.374 under the same terms and conditions provided under KRS 431.517
- (b) If the person is charged with a sex crime as defined in KRS 17.500, consider requiring that he or she be monitored electronically, and shall consider requiring the person be subject to home incarceration;
- (6) Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours;
- (7) A court authorizing the release of a person pursuant to this section shall cause the issuance of an appropriate order containing a statement of the conditions imposed, if any, shall cause such person to be informed of the penalties applicable to violations of the conditions of his release, and shall cause him to be informed that a warrant for his arrest will be issued immediately upon any such violation;
- (8) A person for whom conditions of release are imposed and who after twenty-four (24) hours from the time of the imposition of said conditions continues to be detained as a result of his inability to meet the conditions of release shall, upon written application or upon the court's own motion, be entitled to have the conditions reviewed by the court which imposed them. A

person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon written application or upon the court's own motion, be entitled to a review by the court which imposed the condition; or

- (9) If at any time following release of a defendant and before he is required to appear for trial, the court is advised of a material change in the defendant's circumstances or that he has not complied with all conditions imposed upon his release, the court having jurisdiction may:
- (a) Order the arrest of the defendant;
 - (b) Enter an order requiring the defendant, his surety or sureties to appear and show cause why the bail bond should not be forfeited or the conditions of his release be changed; or
 - (c) Both. A copy of said order shall be served upon the defendant, his surety or sureties. If the defendant fails to appear before the court as ordered or if, after hearing, the court finds the conditions of release have not been complied with, the court may change the conditions imposed or forfeit the bail bond or any portion thereof and enter a judgment for the Commonwealth against the defendant and his surety or sureties for the amount of the bail bond or any portion thereof and cost of the proceedings.

KRS 431.523 Bail for nonresidents charged with driving under the influence.

- (1) Bail for persons who are not residents of Kentucky who are charged with a violation of KRS 189A.010 shall be five hundred dollars (\$500) unless the defendant was involved in a motor vehicle accident in which property damage or physical injury to a person was involved in which case bail shall be one thousand five hundred dollars (\$1,500). In the event of serious physical injury or death the minimum amount of bail shall be five thousand dollars (\$5,000).
- (2) No court shall release a person charged with a violation of KRS 189A.010 who is not a resident of Kentucky without the imposition of bail as required by subsection (1) of this section. Bail in subsection (1) of this section shall be accepted in the full cash amount only, or with court approved surety for that amount, and no other form of bail shall be acceptable.

KRS 431.525 Conditions for establishing amount of bail -- Pilot projects for controlled substance or alcohol abuse testing.

- (1) The amount of the bail shall be:
 - (a) Sufficient to insure compliance with the conditions of release set by the court;
 - (b) Not oppressive;
 - (c) Commensurate with the nature of the offense charged;
 - (d) Considerate of the past criminal acts and the reasonably anticipated conduct of the defendant if released; and
 - (e) Considerate of the financial ability of the defendant.
- (2) When a person is charged with an offense punishable by fine only, the amount of the bail bond set shall not exceed the amount of the maximum penalty and costs.
- (3) When a person has been convicted of an offense and only a fine has been imposed, the amount of the bail shall not exceed the amount of the fine.
- (4) When a person has been charged with one (1) or more misdemeanors, the amount of the bail for all charges shall be encompassed by a single amount of bail that shall not exceed the amount of

the fine and court costs for the one (1) highest misdemeanor charged. This subsection shall apply only to misdemeanor offenses not involving physical injury or sexual contact.

- (5) When a person has been convicted of a misdemeanor offense and a sentence of jail, probation, conditional discharge, or sentence other than a fine only has been imposed, the amount of bail for release on appeal shall not exceed double the amount of the maximum fine that could have been imposed for the one (1) highest misdemeanor offense for which the person was convicted. This subsection shall apply only to misdemeanors not involving physical injury or sexual contact.
- (6) The provisions of this section shall not apply to a defendant who is found by the court to present a flight risk or to be a danger to others.
- (7) If a court determines that a defendant shall not be released pursuant to subsection (6) of this section, the court shall document the reasons for denying the release in a written order.
- (8) The Administrative Office of the Courts shall establish pilot projects to implement controlled substance or alcohol abuse testing as specified under this subsection. If the person's record indicates a history of controlled substance or alcohol abuse, the court may order the person to submit to periodic testing for use of controlled substances or alcohol and to pay a reasonable fee,

not to exceed the actual cost of the test and analysis, as determined by the court, with the fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. If the person is declared indigent, the testing fee may be waived by the court. If the court finds the conditions of release have not been complied with, the court may change the conditions imposed or forfeit the bail bond or any portion thereof and enter a judgment for the Commonwealth against the person and his surety or sureties for the amount of the bail bond or any portion thereof and the cost of the proceedings.

**KRS 431.530 Deposit of bail security -- Payments into public advocate special account --
Return of deposit when innocent or charges dropped or dismissed.**

- (1) Any person who has been permitted to execute a bail bond in accordance with KRS 431.520(3)(b) shall deposit with the clerk of the court before which the action is pending a sum of money equal to ten percent (10%) of the bail, but in no event shall such deposit be less than ten dollars (\$10) unless the defendant earned full credit toward the applicable amount of bail pursuant to KRS 431.066, in which case the defendant shall not be required to make a deposit with the clerk of the court.
- (2) Upon depositing said sum the defendant shall be released from custody subject to all conditions of release imposed by the court.
- (3) Except as provided in subsection (5) of this section, if the conditions of release have been performed and the defendant has been discharged from all obligations in the action the clerk of the court shall return to the defendant, unless the court orders otherwise, ninety percent (90%) of the sum deposited and shall retain as bail costs ten percent (10%) of the amount deposited; provided, however, in no event shall the amount retained by the clerk as bail costs be less than five dollars (\$5). It is further provided that the court shall order the clerk of court to pay into the public advocate special account any amount of the sum

deposited by the defendant, in excess of bail costs, which in its sound discretion represents a reasonable fee for any public advocate legal or investigative services provided for the defendant under KRS Chapter 31, but in no event shall the amount so paid to the public advocate special account as public advocate legal and investigative fees be less than five dollars (\$5) per case. At the request of the defendant the court may order the amount repayable to defendant from such deposit to be paid to defendant's attorney of record.

- (4) Except as provided in subsection (5) of this section, if a final judgment for a fine and court costs or either is entered in the prosecution of an action in which a deposit has been made in accordance with subsection (1) of this section, the balance of such deposit, after deduction of bail costs and public advocate fees as provided for in subsection (3) of this section, shall be applied to the satisfaction of the judgment.
- (5) If the defendant has performed all conditions of release and if the defendant is found not guilty of the offense for which bail was posted, or if all charges against him relating to the offense for which bail was posted are dropped or dismissed, then all bail money deposited by the defendant or by another person on his behalf shall be returned to him with no deductions therefrom as provided in subsection (3) or (4) of this section.

KRS 431.5305 Jailer permitted to prepare or accept bail bond -- Fee -- Reporting. With the approval of the fiscal court of the county in which the prisoner is incarcerated, the jailer may prepare or accept a bail bond pursuant to KRS 30A.060(3). In this case, he shall collect a fee of five dollars (\$5) from the defendant. The jailer shall furnish the defendant with a written receipt for the fee. By the tenth day of each month, the jailer shall:

- (1) Report the previous month's bonding fees to the county treasurer; and
- (2) Submit the previous month's bonding fees to the county treasurer for inclusion in the jail fund.

KRS 431.531 Statement of collections to be filed -- Funds to be sent to State Treasury -- Certification of amounts and publication of annual audit by administrative office of the courts.

- (1) Each Circuit Court clerk shall, on the first day of each month, send to the Finance and Administration Cabinet, a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month pursuant to KRS 431.530(3) and shall, with such statements, send to the State Treasury the amount so collected for deposit to the credit of the general fund.
- (2) The Circuit Court clerk shall send to the State Treasury for credit to the general fund all balances from fees collected pursuant to KRS 431.530.
- (3) The Administrative Office of the Courts shall certify to the Finance and Administration Cabinet on an annual basis that all funds collected have been duly reported by the circuit clerk in accordance with KRS 30A.120.

- (4) The Administrative Office of the Courts shall cause to be published an annual audit of the funds collected pursuant to KRS 30A.120 no later than December 1 for the preceding fiscal year receipts.

KRS 431.532 Bail deposits by person other than defendant.

When deposits of money are made by a person other than the defendant utilizing funds other than those of the defendant as bail security pursuant to KRS 431.530 the following terms and conditions shall apply in lieu of the provisions of subsections (3) and (4) of KRS 431.530:

- (1) The deposit shall be listed as being made on behalf of the defendant by the depositor and not in the name of the defendant;
- (2) If the conditions of release have been performed and the defendant has been discharged from all obligations in the action the clerk of the court shall return to the person who deposited the money ninety percent (90%) of the sum deposited and shall retain as bail costs ten percent (10%) of the amount deposited provided, however, in no event shall the amount retained by the clerk as bail costs be less than five dollars (\$5);
- (3) No deductions shall be made by the court for public advocate services, satisfaction of fines, payment of attorneys, or any other purpose when the defendant has been discharged as provided in subsection (2) of this section unless agreed to by the poster of the bond.
- (4) If the defendant has performed all conditions of release and if the defendant is found not guilty of the offense for which bail was posted, or if all charges against him relating to the offense for which bail was posted are dropped or dismissed, then all bail money deposited pursuant to this section shall be returned to the person posting the bail with no deductions there from as provided in subsection (3) or (4) of KRS 431.530.

KRS 431.535 Cash, stocks, bonds, or real estate as security for bail.

- (2) Any person who has been permitted to execute a bail bond in accordance with KRS 431.520(3)(c) may secure such bond:
 - a By a deposit, with the clerk of the court, of cash, or stocks and bonds in which trustees are authorized to invest funds under the laws of this Commonwealth having an unencumbered market value of not less than the amount of the bail bond; or
 - b By real estate situated in this Commonwealth with unencumbered equity, not exempt and owned by the defendant or a surety or sureties having a fair market value at least double the amount of the bail bond.
- (3) If the bail bond is secured by stocks and bonds the defendant or the surety or sureties shall file with the bond a sworn schedule which shall be approved by the court and shall contain:
 - a A list of the stocks and bonds deposited describing each in sufficient detail that they may be identified;
 - b The present market value of each stock and bond;
 - c The total market value of the stocks and bonds listed;
 - d A statement that the affiant or affiants is the sole owner or owners thereof and that the stocks and bonds listed are not exempt from execution;

- e A statement that such stocks and bonds have not previously been deposited or accepted as bail in this Commonwealth during the 12 months preceding the date of the bail bond; provided, however, this statement shall not be required of the defendant using his own property as security; or if the surety or sureties using their property as security are related to the defendant by consanguinity no further removed than first cousin; or if the surety or sureties is either a father-in-law, mother-in-law, son-in-law, or daughter-in-law of the defendant; and
 - f A statement that such stocks and bonds are security for the appearance of the defendant in accordance with the conditions of release imposed by the court.
- (4) If the bail bond is secured by real estate the defendant or surety or sureties shall file with the bond a sworn schedule which shall contain:
- a A legal description of the real estate;
 - b A description of any and all encumbrances on the real estate including the amount of each and the holder thereof;
 - c The market value of the unencumbered equity owned by the affiant or affiants;
 - d A statement that the affiant is the sole owner, or in the case of jointly owned real estate, that affiants are the sole owners of such unencumbered equity and that it is not exempt from execution;
 - e A statement that the real estate has not previously been used or accepted as bail in this Commonwealth during the 12 months preceding the date of the bail bond; provided however this statement shall not be required of the defendant using his own property as security; or if the surety or sureties using their property as security are related to the defendant by consanguinity no further removed than first cousin; or if the surety or sureties is either a father-in-law, mother-in-law, son-in-law or daughter-in-law of the defendant; and
 - f A statement that the real estate is security for the appearance of the defendant in accordance with the conditions of release imposed by the court.
- (5) The sworn schedule shall constitute a material part of the bail bond. An affiant shall be subject to penalty of perjury if in the sworn schedule he makes a false statement which he does not believe to be true.
- (6) A certified copy of the bail bond and schedule of real estate accompanied by the necessary recording fee which shall be paid by the affiant or affiants shall be filed immediately by the clerk of the court requiring the bail bond in the office of the county clerk of the county in which the real estate is situated. The county clerk shall record such copies of said bail bonds and schedule and the Commonwealth shall have a lien upon such real estate from the date and time of such recordation. The instruments described herein shall be recorded in the miscellaneous encumbrances book provided by the county clerk.
- (7) If the conditions of release imposed by the court have been performed and the defendant has been discharged from all obligations in the action, the clerk of the court shall return to him or his sureties the deposit of any cash, stocks or bonds. If the bail bond has been secured by real estate, the clerk of the court requiring the bail bond shall forthwith notify in writing the county clerk of the county where the real estate is situated and the lien on the real estate shall be discharged and the release thereof recorded in the margin.

KRS 431.540 Uniform schedule of amounts of bail in designated nonviolent Class D felonies, misdemeanors, and violations.

The Supreme Court may by rule or order prescribe a uniform schedule of amounts of bail in designated nonviolent Class D felonies, misdemeanors, and violations;

- (1) Except as provided in subsection (2) of this section, when the amount of bail is fixed by such rule or order of the Supreme Court for a particular offense, the clerk of the court or other public officers so authorized by the court's order shall accept cash bail in the prescribed amount or the deposit authorized by KRS 431.530 and release the defendant to appear in accordance with the conditions of the bail bond. A receipt shall be delivered to the defendant for the bail so taken and within a reasonable time such bail shall be deposited with the clerk of the court having jurisdiction of the offense.
- (2) A court may, in the exercise of its reasonable discretion, refuse to set bail in the amount prescribed by such rule or order of the Supreme Court, but, in so doing, the court must set forth in writing its reasons for such refusal.

KRS 431.545 Forfeiture of bail; Prosecution.

If a defendant shall willfully fail to appear or shall willfully fail to comply with the conditions of his release:

- (1) The court may order a forfeiture of the bail, serving a copy thereof upon the defendant and his surety or sureties at their last known addresses; if the defendant or his surety or sureties do not appear within twenty (20) days after service of the order or a return of not found and satisfy the court that appearance or compliance by the defendant was impossible and without his fault, the court may enter judgment against the defendant and his surety or sureties for the amount of the bail and the costs of the proceedings for all of which execution may issue; and
- (2) The defendant shall be subject to prosecution for the offenses prescribed in KRS 520.070 and 520.080.

KRS 431.550 Penalty for KRS 431.510 to 431.545.

Any person who violates any provisions of KRS 431.510 to 431.545 not otherwise punishable by law or statute shall be guilty of a Class A misdemeanor for the first offense, and guilty of a Class D felony for each additional offense.

KRS 432.270 No bail permitted for contempt

A person committed to prison for contempt shall not be admitted to bail.

KRS 440.020 Confinement of captured convict

An escaped convict, after he is reconfined, shall remain in the penitentiary until the time of his trial for the escape without an examining trial or bail. His acquittal for the offense of escape shall not affect the original sentence.

KRS 440.030 Escape of person from custody; warrant for capture

If any person in custody under an execution, on mesne or final process, by any order of a judge or on a charge of crime escapes, any judge, upon complaint and affidavit made of the fact, shall issue as many warrants for his capture directed to all peace officers as he deems necessary. The cause of the person's original commitment shall be mentioned in the warrant, and it shall command all peace officers to capture the prisoner and forthwith to convey and commit him to the prison of the county from which he escaped, to be safely kept there, without bail, until discharged by due course of law. The warrant, with the proper endorsement thereon, shall be returned by the proper officer to the clerk of the court having jurisdiction of the cause for which the prisoner was in custody.

KRS 440.270 Person charged with crime in other state may be arrested in this state; procedure; warrant required

- (1) Whenever any person within this state shall be charged on the oath of any credible person before any judge of this state with the commission of any crime in any other state and, except in cases arising under KRS 440.210, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under KRS 440.210, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole and is believed to be in this state, the judge shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the Circuit or District Judge of the county in which he was arrested who may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.
- (2) No bail bondsman or his agent shall arrest, detain, imprison, or remove from the state any person for having broken the terms of his bail unless a warrant for that person's arrest has been issued as provided for in subsection (1) of this section.
- (3) Any violation of subsection (2) of this section shall be deemed as a Class D felony and punishable thereas.

KRS 440.280 Arrest may be made without warrant; conditions; procedure The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one (1) year, but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made

against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

KRS 440.290 Commitment in jail pending Governor's warrant issued on requisition If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under KRS 440.210, that he has fled from justice, the judge must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty (30) days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in KRS 440.300, or until he shall be legally discharged.

KRS 440.300 Bail permitted; conditions

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this state.

KRS 440.310 Failure to arrest under warrant of Governor; discharge; recommitment If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant or bond, the judge may discharge him or may recommit him for a further period not to exceed sixty (60) days, or may again take bail for his appearance and surrender, as provided in KRS 440.300, but within a period not to exceed sixty (60) days after the date of such new bond.

KRS 440.320 Forfeiture of bond

If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

KRS 441.045 Rules for jails -- Inspection by county judge/executive -- Medical, dental, and psychological care for prisoners -- Funds not to lapse -- Fee for use of jail medical facilities by state prisoner -- Payments to counties not to exceed Medicaid rate -- Transportation of prisoners for health care -- Responsibility for health care expenses. (In pertinent part)

(8) (a) The determination of whether a prisoner is indigent shall be made pursuant to KRS 31.120, and may be evidenced by the affidavit of indigency required by that statute or the appointment of a public defender under that statute...

KRS 446.010 Definitions for statutes generally. (In pertinent part)

- (35) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures a defendant's risk of flight and risk of anticipated criminal conduct while on pretrial release pending adjudication[.]
- (42) "Treatment" when used in a criminal justice context, means targeted interventions that focus on criminal risk factors in order to reduce the likelihood of criminal behavior. Treatment options may include but shall not be limited to community-based programs that are consistent with evidence-based practices; cognitive-behavioral programs; faith-based programs; inpatient and outpatient substance abuse or mental health programs; and other available prevention and intervention programs that have been scientifically proven to produce reductions in recidivism when implemented competently. "Treatment" does not include medical services[.]

KRS 452.260 Proceedings when defendant is in custody or on bail

If the defendant is in custody, the order for the change of venue shall be accompanied by an order for his removal by the sheriff or jailer of the county in which he is held, with such sufficient guard as the court directs, and for his delivery to the jailer of the county where the trial is to be held. If the defendant is under recognizance or bond for his appearance he shall, before the order is granted, give sufficient bail for his appearance at the proper court, or be surrendered into the custody of the proper officer.

KRS 456.040 Review of petition for interpersonal protective order -- Temporary interpersonal protective order.

- (1) (a) The court shall review a petition for an interpersonal protective order immediately upon its filing. If the review indicates that dating violence and abuse, stalking, or sexual assault exists, the court shall summons the parties to an evidentiary hearing not more than fourteen (14) days in the future. If the review indicates that such a basis does not exist, the court may consider an amended petition or dismiss the petition without prejudice.
- (b) Service of the summons and hearing order under this subsection shall be made upon the adverse party personally and may be made in the manner and by the persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil Procedure. A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.
- (2) (a) If the review under this section also indicates the presence of an immediate and present danger of dating violence and abuse, sexual assault, or stalking, the court shall, upon proper motion, issue ex parte a temporary interpersonal protective order that:
1. Authorizes relief appropriate to the situation utilizing the alternatives set out in KRS 456.060;
 2. Expires upon the conclusion of the evidentiary hearing required by this section unless extended or withdrawn by subsequent order of the court; and
 3. Does not order or refer the parties to mediation unless requested by the petitioner, and the court finds that:
 - a. The petitioner's request is voluntary and not the result of coercion; and

- b. Mediation is a realistic and viable alternative to or adjunct to the issuance of an order sought by the petitioner.
- (b) If an order is not issued under this subsection, the court shall note on the petition, for the record, any action taken or denied and the reason for it.

KRS 532.200 Definitions for KRS 532.210 to 532.250.

- 1) As used in KRS 532.210 to 532.250, unless the context otherwise requires: "Home" means the temporary or permanent residence of a defendant consisting of the actual living area. If more than one (1) residence or family is located on a single piece of property, "home" does not include the residence of any other person who is not part of the social unit formed by the defendant's immediate family. A hospital, nursing care facility, hospice, half-way house, group home, residential treatment facility, or boarding house may serve as a "home" under this section;
- 2) "Home incarceration" means the use of a monitoring device approved by the commissioner of the Department of Corrections to facilitate a prisoner's ability to maintain gainful employment or to participate in programs approved as a condition of his or her incarceration, or both, using the person's home for purposes of confinement;
- 3) "Violent felony offense" means an offense defined in KRS 507.020 (murder), 507.030 (manslaughter in the first degree), 508.010 (assault in the first degree), 508.020 (assault in the second degree), 509.040 (kidnapping), 510.040 (rape in the first degree), 510.070 (sodomy in the first degree), 510.110 (sexual abuse in the first degree), 511.020 (burglary in the first degree), 513.020 (arson in the first degree), 513.030 (arson in the second degree), 513.040 (arson in the third degree), 515.020 (robbery in the first degree), 515.030 (robbery in the second degree), 520.020 (escape in the first degree), any criminal attempt to commit the offense (KRS 506.010), or conviction as a persistent felony offender (KRS 532.080) when the offender has a felony conviction for any of the above-listed offenses within the five year period preceding the date of the latest conviction;
- 4) "Terminal illness" means a medically recognized disease for which the prognosis is death within six (6) months to a reasonable degree of medical certainty; and
- 5) "Approved monitoring device" means an electronic device or apparatus which is capable of recording, tracking, or transmitting information as to the prisoner's location or verifying the prisoner's presence or non-presence in the home, or both. The devices shall be minimally intrusive. Devices shall not be used without the prisoner's knowledge to record or transmit:
 - (a) Visual images other than the defendant's face;
 - (b) Oral or wire communications or any auditory sound other than the defendant's voice; or
 - (c) Information as to the prisoner's activities while inside the home.

KRS 524.130 Unauthorized practice of law.

- (1) Except as provided in KRS 341.470 and subsection (2) of this section, a person is guilty of unlawful practice of law when, without a license issued by the Supreme Court, he engages in the practice of law, as defined by rule of the Supreme Court.

- (2) A licensed nonresident attorney in good standing, although not licensed in Kentucky, is not guilty of unlawful practice if, in accordance with rules adopted by the Supreme Court, he practices law under specific authorization of a court.
- (3) Unlawful practice of law is a Class B misdemeanor

KRS 532.210 Petition -- Study of record -- Order.

- (1) Any misdemeanant or a felon who has not been convicted of, pled guilty to, or entered an Alford plea to a violent felony offense may petition the sentencing court for an order directing that all or a portion of a sentence of imprisonment in the county jail be served under conditions of home incarceration. Such petitions may be considered and ruled upon by the sentencing court prior to and throughout the term of the defendant's sentence.
- (2) The sentencing judge shall study the record of all persons petitioning for home incarceration and, in his discretion, may:
 - (a) Cause additional background or character information to be collected or reduced to writing by the county jailer or misdemeanor supervision department;
 - (b) Conduct hearings on the desirability of granting home incarceration;
 - (c) Impose on the home incarcerated such conditions as are fit, including restitution;
 - (d) Order that all or a portion of a sentence of imprisonment in the county jail be served under conditions of home incarceration at whatever time or intervals, consecutive or nonconsecutive, as the court shall determine. The time actually spent in home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to this chapter whichever is the shorter;
 - (e) Issue warrants for persons when there is reason to believe they have violated the conditions of home incarceration, conduct hearings on such matters, and order reimprisonment in the county jail upon proof of violation; and
 - (f) Grant final discharge from incarceration.
- (3) All home incarcerated shall execute a written agreement with the court setting forth all of the conditions of home incarceration. The order of home incarceration shall incorporate that agreement and order compliance with its terms. The order and agreement shall be transmitted to the supervising authority and to the appropriate jail official.
- (4) Time spent in home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to this chapter.
- (5) Home incarcerated shall be under the supervision of the county jailer except in counties establishing misdemeanor supervision departments, wherein they shall be under the supervision of such departments. Home incarcerated shall be subject to the decisions of such authorities during the period of supervision. Fees for supervision or equipment usage shall be paid directly to the supervising authority.

KRS 532.220 Conditions of home incarceration.

The conditions of home incarceration shall include the following:

- 1) The home incarcerated shall be confined to his home at all times except when:

- (a) Working at approved employment or traveling directly to and from such employment; (b) Seeking employment;
 - (c) Undergoing available medical, psychiatric, or mental health treatment or approved counseling and after care programs;
 - (d) Attending an approved educational institution or program;
 - (e) Attending a regularly scheduled religious service at a place of worship; and
 - (f) Participating in an approved community work service program;
- 2) Violation of subsection (1) of this section may subject the home incarcerated to prosecution under KRS 520.030 (escape);
 - 3) The home incarcerated shall conform to a schedule prepared by a designated officer of the supervising authority specifically setting forth the times when he may be absent from the home and the locations where he may be during those times;
 - 4) The home incarcerated shall not commit another offense during the period of time for which he is subject to the conditions of home incarceration;
 - 5) The home incarcerated shall not change the place of home incarceration or the schedule without prior approval of the supervising authority;
 - 6) The home incarcerated shall maintain a telephone or other approved monitoring device in the home or on his person at all times;
 - 7) Any other reasonable conditions set by the court or the supervising authority including:
 - (a) Restitution under KRS 533.030;
 - (b) Supervision fees under KRS 439.315; and
 - (c) Any of the conditions imposed on persons on probation or conditional discharge under KRS 533.030(2);
 - 8) A written and notarized consent agreement shall be filed with the court by every adult who will share the offender's home during the term of home incarceration; and
 - 9) Any supervision fee or other monetary condition, except restitution, shall be paid by the defendant directly to the person or organization specified by the court in a written order, except that any such fees or monetary conditions owed to the Department of Corrections shall be paid through the circuit clerk.

KRS 532.230 Ineligibility.

No person being held under a detainer, warrant, or process issued by some other jurisdiction shall be eligible for home incarceration. No person convicted of a violent felony offense shall be eligible for home incarceration.

KRS 532.240 Responsibilities of persons held in home incarceration.

Any person serving his sentence under conditions of home incarceration shall be responsible for his food, housing, clothing, and medical care expenses, and shall be eligible for government benefits to the same extent as a person on probation, parole, postincarceration supervision, or conditional discharge.

KRS 532.245 Credit for time spent in pretrial home incarceration

- (1) Time spent in pretrial home incarceration pursuant to KRS 431. 517 shall be credited against the maximum term of imprisonment assessed to the defendant upon conviction. Time credited under this section shall be calculated in accordance with KRS 532.120.
- (2) Violation of the terms of pretrial home incarceration shall be deemed an interruption of the defendant's home incarceration. The interruption shall begin at the time of the violation and shall continue until a court revokes home incarceration or otherwise acts on the violation. Time spent in pretrial home incarceration prior to the violation shall be credited against the maximum term of imprisonment assessed to the defendant upon conviction for the original charge.

KRS 532.250 Monthly list of incarcerated provided to local law enforcement agencies. At least once every thirty (30) days, the supervising authority shall provide all local and county law enforcement agencies with a list of the offenders under home incarceration in their jurisdictions. This list shall include the following information:

- (1) The prisoner's place of home incarceration;
- (2) The crime for which the prisoner was convicted;
- (3) The date that the sentence of home incarceration will be completed; and
- (4) The name, address and phone number of the officer of the authority supervising the prisoner.

KRS 534.070 Incarceration for failure to pay fine or court costs or failure to appear in court; daily credit against fine or court costs for time served; application of partial payment

(1) A defendant who has been sentenced to jail for failure to pay a fine or court costs or for failure to appear in court on a date set for the sole purpose of addressing nonpayment of a fine or court costs shall receive credit against the fine and costs owed for each day the defendant spends in jail at the following rates:

- (a) Fifty dollars (\$50) per day if the defendant does not work at a community service or community labor program; or
 - (b) One hundred dollars (\$100) per day if the defendant works eight (8) hours per day at a community service or community labor program. If the defendant works less than eight (8) hours in a community service or community labor program, the defendant shall be allowed an amount of one-eighth (1/8) of the one hundred dollars (\$100) for each hour worked in a community service or community labor program.
- (2) Credit against a fine or court costs earned by a defendant pursuant to this section shall prohibit the collection of any part of a fine or costs which has been credited pursuant to this section, and that portion of the fine or costs shall be considered paid.
- (3) The jailer shall be responsible for monitoring a defendant's community service and tracking the number of days to be served to pay any outstanding fine or court costs.
- (4) If a partial payment is made by the defendant or on behalf of a defendant, that payment shall be applied first to court costs, then to fees, and then to fines pursuant to KRS 23A.205 or 24A.175 prior to the application of any credit earned pursuant to this section. Credit earned pursuant to this section shall not be applied to restitution

KRS 533.015 Alternatives to incarceration.

Whenever a statute mentions probation, shock probation, conditional discharge, home incarceration, or other form of alternative to incarceration, that alternative may include a community-based, faith-based, charitable, church-sponsored, or nonprofit residential or nonresidential counseling and treatment program or drug court, and, upon petition by the defendant, the court may sentence or permit the defendant to attend that program. This program may also be used for pretrial release and pretrial diversion.

KRS 534.020 Methods of imposing fines.

- (1) When a defendant is sentenced to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, then the fine shall be payable forthwith.
- (2) When a defendant is sentenced to pay a fine, an alternative sentence of imprisonment that is to be served in the event the fine is not paid shall not be imposed at the same time. The response of a court to nonpayment of a fine shall be determined only after the fine has not been paid, and as provided in KRS 24A.175 or 534.060.

KRS 534.030 Fines for felonies.

- (1) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any felony shall, in addition to any other punishment imposed upon him, be sentenced to pay a fine in an amount not less than one thousand dollars (\$1,000) and not greater than ten thousand dollars (\$10,000) or double his gain from commission of the offense, whichever is the greater.
- (2) In determining the amount and method of paying a fine for commission of a felony, the court shall consider, among others, the following factors:
 - (a) The defendant's ability to pay the amount of the fine;
 - (b) The hardship likely to be imposed on the defendant's dependents by the amount of the fine and the time and method of paying it;
 - (c) The impact the amount of the fine will have on the defendant's ability to make reparation or restitution to the victim; and
 - (d) The amount of the defendant's gain, if any, derived from the commission of the offense.
- (3) When a defendant is convicted of two (2) or more felonies committed through a single act and is sentenced to fines pursuant to subsection (1), the aggregate amount of the fines shall not exceed ten thousand dollars (\$10,000) or double the amount of the defendant's gain from commission of the offenses, whichever is the greater.
- (4) Fines required by this section shall not be imposed upon any person determined by the court to be indigent pursuant to KRS Chapter 31.
- (5) This section shall not apply to a corporation.

KRS 534.040 Fines for misdemeanors and violations.

- (1) Fines and imprisonment for misdemeanors shall not be mutually exclusive. In any case where imprisonment is authorized, a fine may be levied in addition to the imprisonment, or a fine may be levied as an alternative to imprisonment. Similarly, a fine may be levied in lieu of imprisonment. Whether the fine is to be levied as the sole penalty or as an additional or alternative penalty shall be in the discretion of the judge or jury as the case may be. If the trial is by jury, the jury shall have the discretion. This rule shall apply in all cases where a fine is not the exclusive penalty authorized by law.
- (2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any offense other than a felony shall be sentenced, in addition to any other punishment imposed upon him, to pay a fine in an amount not to exceed: (a) For a Class A misdemeanor, five hundred dollars (\$500); or (b) For a Class B misdemeanor, two hundred fifty dollars (\$250); or (c) For a violation, two hundred fifty dollars (\$250).
- (3) This section shall not apply to a corporation.
- (4) Fines required by this section shall not be imposed upon any person determined by the court to be indigent pursuant to KRS Chapter 31.

KRS 534.060 Response to nonpayment of fines.

- (1) When an individual sentenced to pay a fine defaults in the payment of the fine or any installment, the court upon motion of the prosecuting attorney or upon its own motion may require him to show cause why he should not be imprisoned for nonpayment. The court may issue a warrant of arrest or a summons for his appearance.
- (2) Following an order to show cause under subsection (1), unless the defendant shows that his default was not attributable to an intentional refusal to obey the sentence of the court and not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the court may order the defendant imprisoned for a term not to exceed:
 - (a) Six (6) months, if the fine was imposed for the conviction of a felony; or
 - (b) One-third (1/3) of the maximum authorized term of imprisonment for the offense committed, if the fine was imposed for conviction of a misdemeanor; or (c) Ten (10) days, if the fine was imposed for conviction of a violation.
- (3) If the default in payment of a fine is determined to be excusable under the standards set forth in subsection (2), the court may enter an order allowing the defendant additional time for payment, reducing the amount of each installment, or modifying the manner of payment in any other way.
- (4) When a fine is imposed on a corporation, it is the duty of the person or persons authorized to make disbursement of the assets of the corporation and their superiors to pay the fine from assets of the corporation. The failure of such persons to do so shall render them subject to imprisonment under subsections (1) and (2).
- (5) Following a default in the payment of a fine or any installment thereof, the fine may be collected by any means authorized for the enforcement of money judgments rendered in favor of the Commonwealth.

KRS 534.070 Incarceration for failure to pay fine or court costs or failure to appear in court -- Daily credit against fine or court costs for time served.

- (1) A defendant who has been sentenced to jail for failure to pay a fine or court costs or for failure to appear in court on a date set for the sole purpose of addressing nonpayment of a fine or court costs shall receive credit against the fine and costs owed for each day the defendant spends in jail at the following rates:
 - (a) Fifty dollars (\$50) per day if the defendant does not work at a community service or community labor program; or
 - (b) One hundred dollars (\$100) per day if the defendant works eight (8) hours per day at a community service or community labor program. If the defendant works less than eight (8) hours in a community service or community labor program, the defendant shall be allowed an amount of one-eighth (1/8) of the one hundred dollars (\$100) for each hour worked in a community service or community labor program.
- (2) Credit against a fine or court costs earned by a defendant pursuant to this section shall prohibit the collection of any part of a fine or costs which has been credited pursuant to this section, and that portion of the fine or costs shall be considered paid.
- (3) The jailer shall be responsible for monitoring a defendant's community service and tracking the number of days to be served to pay any outstanding fine or court costs.
- (4) If a partial payment is made by the defendant or on behalf of a defendant, that payment shall be applied first to court costs, then to fees, and then to fines pursuant to KRS 23A.205 or 24A.175 prior to the application of any credit earned pursuant to this section. Credit earned pursuant to this section shall not be applied to restitution.

KRS 635.020 Criteria for determining how child is to be tried.

- (1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.
- (2) If a child charged with a capital offense, Class A felony, or Class B felony, had attained age fourteen (14) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (3) If a child charged with a Class C or Class D felony has on one (1) prior separate occasion been adjudicated a public offender for a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (4) Any other provision of KRS Chapters 610 to 645 to the contrary notwithstanding, if a child charged with a felony in which a firearm, whether functional or not, was used in the

commission of the offense had attained the age of fourteen (14) years at the time of the commission of the alleged offense, he shall be transferred to the Circuit Court for trial as an adult if, following a preliminary hearing, the District Court finds probable cause to believe that the child committed a felony, that a firearm was used in the commission of that felony, and that the child was fourteen (14) years of age or older at the time of the commission of the alleged felony. If convicted in the Circuit Court, he shall be subject to the same penalties as an adult offender, except that until he reaches the age of eighteen (18) years, he shall be confined in a facility or program for juveniles or for youthful offenders, unless the provisions of KRS 635.025 apply or unless he is released pursuant to expiration of sentence or parole, and at age eighteen (18) he shall be returned to the sentencing Circuit Court for proceedings consistent with KRS 640.030(2).

- (5) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (6) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, a misdemeanor, or a violation arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (7) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (8) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to Circuit Court.

KY Rules of the Supreme Court (SCR), GDS PRETRIAL RELEASE Section 1 Section 1

Purpose KRS 27A.096 states:

- (a) The Supreme Court shall establish recommended guidelines for judges to use when ordering pretrial release and monitored conditional release for defendants whose pretrial risk assessments indicate that they are moderate or high risk and would otherwise be ordered to a local correctional facility while waiting for trial.
- (b) The Supreme Court shall establish recommended guidelines for judges to use to determine whether defendants whose pretrial risk assessments indicate that they are moderate to high risk and are eligible for pretrial supervision.
- (c) Judges shall consider the guidelines established by the Supreme Court pursuant to this section when setting terms of pretrial supervision.

KY Rules of the Supreme Court (SCR), GDS PRETRIAL RELEASE Section 2 Section 2 Definitions

As used in these sections, unless the context otherwise requires: (a) “Conditions of release” has the same meaning as that set forth in RCr 4.00(c).

- (b) “High risk defendant” means a defendant who has been determined through the pretrial risk assessment to pose a high risk of flight and anticipated criminal conduct. Under KRS 431.066 and these guidelines, level of risk also includes a determination by the court as to the defendant's likelihood of appearing for trial and risk of danger to others. (c) “Individual risk and needs” means behaviors and conditions identified by scientific evidence to contribute to an individual defendant's risk of flight and anticipated criminal conduct, as determined by the pretrial interview, investigation and risk assessment. (d) “Low risk defendant” means a defendant who has been determined through the pretrial risk assessment to pose a low risk of flight and anticipated criminal conduct. Under KRS 431.066 and these guidelines, level of risk also includes a determination by the court as to the defendant's likelihood of appearing for trial and risk of danger to others.
- (e) “Moderate risk defendant” means a defendant who has been determined through the pretrial risk assessment to pose a moderate risk of flight and anticipated criminal conduct. Under KRS 431.066 and these guidelines, level of risk also includes a determination by the court as to the defendant's likelihood of appearing for trial and risk of danger to others.
- (f) “Pretrial risk assessment” means an objective, research based, validated assessment tool that measures a defendant's risk of flight and risk of anticipated criminal conduct while on pretrial release pending adjudication.
- (g) “Risk level” means (1) the assessed predictability of a defendant's risk of flight and anticipated criminal conduct based upon the validated Kentucky pretrial risk assessment and (2) the assessed risk of a defendant appearing for trial and posing a danger to others based upon the court's determination.
- (h) “Risk reduction plan” means the conditions of release, as recommended to the court by a pretrial officer. The risk reduction plan will be based on the individual risk and needs of a defendant in order to mitigate risk of reoffending or failing to appear.
- (i) “Supervision strategy” means conditions, strategies and supervision levels that pretrial officers employ given both the risk level of the defendant and the ability of the defendant to manage his or her own behavior in the community. Because strategies may change during the course of pretrial supervision, periodic modifications to the supervision risk reduction plan may be necessary.

Section 3 Pretrial interview, investigation and risk assessment

- (a) Pretrial Services will assemble reliable and objective information relevant to the court's determination concerning pretrial release and supervision, drawing upon information obtained through the interview of the defendant, its investigation and the risk assessment. Pretrial Services will present to the court an assessment of risks posed by the defendant and will recommend ways of responding to the risks through use of appropriate conditions of release.
- (b) The interview, investigation and assessment may include, but are not limited to, information such as:
 - (1) the defendant's age, physical and mental condition, family ties, employment status and history, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings;
 - (2) whether, at the time of the current offense or arrest, the defendant was on probation, parole, or other release pending trial, sentencing, appeal, or completion of sentence for an offense;
 - (3) the availability of persons who could verify information and who agree to assist the defendant in attending court at the proper time;
 - (4) other information relevant to successful supervision in the community;
 - (5) facts justifying a concern that the defendant will violate the law if released without restrictions; and
 - (6) whether there are specific factors that may make the defendant an appropriate subject for conditional release and supervision options, including participation in available drug, mental health or other treatment.
- (c) The presentation of the Pretrial Service's information and the recommendations made to the court will link assessments of the risk of flight and of public safety to appropriate release options designed to respond to the specific risk and supervision needs identified. Suggested release options or conditions will be objectively and consistently applied and will constitute the least restrictive conditions necessary to assure the defendant's appearance for scheduled court events and protect the safety of the community and individual persons.

KY Rules of the Supreme Court (SCR), GDS PRETRIAL RELEASE Section 4 Section 4 Initial presentation and re-examination of the release decision

- (a) Information obtained by Pretrial Services through the interview of the defendant, its investigation and the risk assessment will be presented to the court within 12 hours of the defendant's incarceration. Failure by Pretrial Services to present this information to the court within 12 hours will not result in the automatic release of a defendant.
- (b) Pretrial Services must inform the court of those defendants in custody who are not released from jail 24 hours after the initial presentation by the pretrial officer. If a defendant continues to be detained 24 hours from the time of the imposition of conditions of release because of the inability to meet such conditions, the court that imposed the conditions must review the

conditions on the defendant's written application or may do so on its own motion. If the court declines to modify the conditions, the judge will record in writing the reasons for that decision.

- (c) Pretrial Services will inform the court of those defendants in custody who have not appeared before the court and who are not released from jail after 48 hours. In addition to the information obtained through the interview, investigation and risk assessment, the pretrial officer will provide the court with the current charge and information from the arrest document for a probable cause determination.
- (d) Pretrial Services will provide the court with a weekly report that lists the name of the defendants, the status of the bail and the current charge for defendants who remain in custody pending adjudication.

KY Rules of the Supreme Court (SCR), GDS PRETRIAL RELEASE Section 5

Section 5 Factors to consider

- (a) Utilizing the pretrial interview, investigation and risk assessment, the pretrial officer will determine whether a defendant poses a low, moderate or high risk of flight or anticipated criminal conduct and will recommend an appropriate risk reduction plan to the court.
- (b) In determining whether there is a substantial risk of nonappearance or threat to the community, any person, or the integrity of the judicial process if the defendant is released, the court should consider the pretrial risk assessment and the pretrial recommendation regarding appropriate conditions of release.
- (c) Factors utilized in the pretrial risk assessment and in making the pretrial recommendation include, but are not limited to, the factors set forth in Section 3.

KY Rules of the Supreme Court (SCR), GDS PRETRIAL RELEASE Section 6 Section 6

Low-risk defendants

Pursuant to KRS 431.066(2), if, based upon the pretrial risk assessment, the court determines that a defendant poses a low risk of flight and of anticipated criminal conduct, and the court determines that the defendant is likely to appear for trial and is not likely to be a danger to others, the court shall order the defendant released on unsecured bond or on the defendant's own recognizance subject to such other conditions as the court may order.

If the court in its discretion determines that the nature and circumstances of the offense necessitate conditions to ensure public safety and future court appearances, the court should consider, and may place on low-risk defendants, the least restrictive conditions of release.

KY Rules of the Supreme Court (SCR), GDS PRETRIAL RELEASE Section 7 Section 7

Moderate risk defendants

Pursuant to KRS 431.066(3), if, based upon the pretrial risk assessment, the court determines that a defendant poses a moderate risk of flight and of anticipated criminal conduct, and the court determines that the defendant has a moderate risk of not appearing for trial and poses a moderate risk of danger to others, the court shall release the defendant on unsecured bond or on the defendant's own recognizance, but the court shall consider global positioning system (GPS)

monitoring, controlled substance testing, increased supervision, or such other conditions as the court may order.

For a moderate risk defendant, the court may place conditions of release that are related to the defendant's individual risk factors. Through the pretrial interview, investigation and risk assessment, the pretrial officer will identify the defendant's individual risk factors and will recommend to the court an appropriate risk reduction plan and supervision strategy.

KY Rules of the Supreme Court (SCR), GDS PRETRIAL RELEASE Section 8

Section 8 High risk defendants

If, based upon the pretrial risk assessment, a defendant is determined to pose a high risk of flight or a high risk of anticipated criminal conduct, or the court determines that the defendant has a high risk of not appearing for trial or poses a high risk of danger to others, the pretrial officer will develop and recommend to the court a risk reduction plan and a supervision strategy. The risk reduction plan will take into consideration the defendant's individual risk factors and the conditions of release set forth in Section 9.

KY Rules of the Supreme Court (SCR), GDS PRETRIAL RELEASE Section 9

Section 9 Conditions of release

- (a) If the court sets conditions of release, the court shall consider imposing the least restrictive release conditions reasonably necessary to ensure the defendant's appearance in court, to protect the safety of the community or any person, to prevent intimidation of witnesses or interference with the orderly administration of justice and to safeguard the integrity of the judicial process. In addition, the court should, in every case, (1) require that the defendant attend all court proceedings as ordered and (2) prohibit the commission of any criminal offense.
- (b) The court will have (1) a wide array of programs or options available to promote pretrial release on conditions that ensure appearance and protect the safety of the community, victims and witnesses pending trial and (2) the capacity to develop release options appropriate to the risks and special needs posed by defendants released to the community. When no conditions of release are sufficient to accomplish the aims of pretrial release, defendants must be detained.
- (c) In setting conditions of release, the court should consider the pretrial officer's recommended risk reduction plan. The conditions of release should be reasonably related to the defendant's risks of nonappearance and danger to public safety that have been identified by the court.
- (d) When conditions of release are imposed, the court may direct the pretrial officer to (1) monitor the defendant's compliance with the nonfinancial conditions and (2) make reports to the court concerning the defendant's compliance with the conditions.
- (e) If a court determines, in the exercise of its discretion, that release on personal recognizance or the execution of an unsecured bail bond will not reasonably assure the appearance of the defendant, KRS 431.520 requires the court to impose any of the conditions of release listed in KRS 431.520(1) through (5) or any other condition deemed reasonably necessary to assure

the defendant's appearance as required by the court. Conditions of release may include, but are not limited to:

- (1) reporting to the pretrial officer;
 - (2) prohibition against consuming alcohol or illegal drugs;
 - (3) prohibition against possession of weapons;
 - (4) prohibition against driving;
 - (5) alcohol/drug abuse assessment/evaluation;
 - (6) alcohol/drug treatment;
 - (7) random drug testing;
 - (8) electronic and global positioning system monitoring;
 - (9) restriction of association;
 - (10) restricting place of abode;
 - (11) restricting travel by structuring inclusion and exclusion zones that prohibit travel to specific locations;
 - (12) no contact orders;
 - (13) telephone or other curfews;
 - (14) home incarceration or GPS monitoring;
 - (15) educational and/or employment requirements; and
 - (16) payment of court-ordered obligations.
- (f) The defendant shall be notified of upcoming court dates.
- (g) Pretrial officers shall inform the court if a defendant fails to appear in court or is charged with a new crime while on pretrial release.

KY Rules of the Supreme Court (SCR), GDS PRETRIAL RELEASE Section 10 Section 10 Release decision order provisions

In the release decision order, the court should

- (a) include all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the defendant's conduct.
- (b) advise the defendant of:
 - (1) the consequences of violating a condition of release, including the immediate issuance of a warrant for the defendant's arrest and possible criminal penalties;
 - (2) the prohibitions against threats, force, or intimidation of witnesses, jurors and officers of the court, obstruction of criminal investigations and retaliation against a witness, victim or informant; and
 - (3) the prohibition against any criminal conduct during pretrial release.
- (d) document the reasons for:
 - (1) setting a bail amount that exceeds the maximum amount set forth in KRS 431.525(2) through (5) because the defendant presents a flight risk or is a danger to others; (2) denying a defendant release via bail credit under KRS 431.066 because:
 - (A) the defendant is convicted of, pleading guilty to, or entering an Afford plea to a felony offense under KRS Chapter 510, KRS 529.100 involving commercial sexual activity, KRS 530.020, 530.064(1)(a), 531.310, or 531.320, or who is a violent offender as defined in KRS 439.3401; or

- (B) the defendant is found by the court to present a flight risk or to be a danger to others;
and
- (3) denying a defendant release pursuant to presumptive probation under KRS 218A.135 because the defendant presents a flight risk or is a danger to himself or herself or a danger to others.

KY Rules of the Supreme Court (SCR), GDS PRETRIAL RELEASE Section 11 Section 11 Court's discretion

Nothing in these Guidelines shall be construed to limit the court's discretion as to whether or not to grant pretrial release to a defendant. The court may determine whether to release a defendant on personal recognizance or unsecured appearance bond, release a defendant on one or more conditions, or detain a defendant.

KY Rules of the Supreme Court (SCR), GDS PRETRIAL RELEASE Section 12 Section 12 Uniform bail schedule

The Uniform Bail Schedule, which was implemented as a pilot program in several jurisdictions, shall continue to apply for purposes of allowing a release on a minimal bond prior to a pretrial investigation and presentation of the defendant's case to a judicial officer.

BREAK

Resources

Most Commonly Used Acronyms and Other Abbreviations

ADE - Alcohol Drug Education

AOC-Administrative Office of the Courts

AOI-Affidavit of Indigency

AP- Administrative Procedures

ASCF- 1=attempt

2=solicitation

3=conspiracy

4=facilitation

5=complicity

6=enhancement

BW- bench warrant

C- Civil

CD-Conditionally Discharged

CDL- Commercial Driver's License

CR- Circuit Criminal

CI- Circuit Civil

DCBS-Department of Community Based Services

DRC- Domestic Relations Commissioner

DOC- Department of Corrections

DOT-Department of Transportation

DSS- Department of Social Service

D- Domestic Case

DLN- Driver's License Number

DPA-Department of Public Advocacy

DV- Domestic Violence

DVO-Domestic Violence Order

EPA-Employee Performance Assessment

EM/HIC/HIP- Electronic Monitoring/Home Incarceration/Home Incarceration Program

EPO-Emergency Protective Order

F- Felony case

FFJ- Fugitive from Justice

FTA- Fail to Appear

FTP- Fail to Pay

FTV-Fugitive

GDJ- Grand jury

HR- Human Resource

IPO-Interpersonal Protective Order

J- Juvenile case

JC3- report that supplements arrest complaint on domestic issues

KCOJ- Kentucky Court of Justice

KCPC- Kentucky Correctional Psychiatric Center

KCIW- Kentucky Correctional Institution for Women

KRS- Kentucky Revised Statutes

KSP- Kentucky State Police

LMS-learning management system

MCR-Monitored Conditional Release

M-Misdemeanor

NAPSA-National Association of Pretrial Services Agencies

NCIC-National Crime Information Center

OPM- Office Procedure Manual

PFO- Persistent Felony offender

PH- Preliminary Hearing

P&P-probation and parole

PRIM- Pretrial Release Information Management

PS- partially secured

PSAP-Pretrial Substance Abuse Program

PTC-Pretrial Conference

PTO- Pretrial Officer

RA- risk assessment

RCr-Rules of Criminal Procedure

ROR- Release on Recognizance

S-Small Claims case

SB4- refers to Senate Bill 4 that was passed in 2009 that required evidence-based practices and gave specific guidelines to judiciary related to release.

SCH- Show Cause Hearing

SUR- Surety

T- Traffic Case

TIA- Tried in absence

TIPO-Temporary Interpersonal Protection Order

UOR-uniform offense reporting codes

USB-Unsecured Bond

Web resources

KCOJ intranet-forms

KCOJ Sharepoint- local program and OPM info

Jailtracker

VINE

KOOL

NCIC

www.courts.ky.gov

Local Child Support Office

Ky Legal Aid- www.klaid.org

Justice Exchange

KSP website

KYCOURTSII

E-Warrants

Ky.gov

Probation/Parole Reentry Council
Local Law Enforcement Agencies

AOC Approved Language Line

Pamphlets found on line with in KCOJ- Your Day in Court, Pretrial Services, Justice in Our Commonwealth

State Library Webinar

Veteran Issues-Ky Department of Veterans Affairs –www.veterans.ky.gov

Local mental health/domestic organizations
Community Action

Local Probation Office

Local resource information to aid questions on the “needs assessment”-transportation and support groups.

<https://findtreatment.samhsa.gov/> and <https://youtu.be/9mFAFyJ8LbM>

Glossary of Legal Terms and Lingo-Pretrial Services

A-

Accused – “**1.** Someone who has been blamed for wrongdoing; especially a person who has been arrested and brought before a magistrate or who has been formally charged with a crime (as by indictment or information). **2.** A person against whom legal proceedings have been initiated.” *Accused*, Black’s Law Dictionary (10th ed. 2014).

Acquittal – “The legal certification, usually by jury verdict, that an accused person is not guilty of the charged offense; an official statement in a court of law that a criminal defendant is not guilty.” *Acquittal*, Black’s Law Dictionary (10th ed. 2014).

Adjudication - “**1.** The legal process of resolving a dispute; the process of judicially deciding a case. **2.** Judgment.” *Adjudication*, Black’s Law Dictionary (10th ed. 2014).

Affidavit –a written statement or declaration sworn to or affirmed before an officer authorized to take depositions such as a judge, clerk, commissioner, official court reporter, notary public or other persons authorized by law. “Every **affidavit** shall be subscribed by the affiant; and the certificate of the officer or person before whom it is made shall be written separately, following the signature of the affiant, and shall be proof of the time and manner of the **affidavit** being made.” CR 43.13

Affidavit of Indigency- A sworn statement that is used to determine whether a defendant is indigent and needs the court to appoint counsel to provide legal representation. The affidavit is subscribed and sworn by the defendant and lists his income, property, other assets, dependents, and expenses. KRS 31.120

Affirmation – “A solemn pledge equivalent to an oath but without reference to a supreme being or to swearing.” *Affirmation*, Black’s Law Dictionary (10th ed. 2014).

Arraignment – shall be conducted in open court and shall consist of reading or stating to the defendant the substance of the charge and calling upon the defendant to plead in response to it. RCr 8.02. The judge shall advise the defendant of his or her right to a preliminary hearing or a trial, the right to counsel, the right to have counsel appointed if the defendant cannot afford counsel then the right to have counsel appointed (if the charge is punishable by confinement), the right to remain silent, and the right to a reasonable bail (if the offense is bailable). RCr. 3.05.

Arrest Warrant – “If from an examination of the complaint it appears to the judge (or clerk authorized to issue warrants pursuant to KRS 15.725(5)) that there is probable cause to believe that an offense has been committed and that the defendant committed it, the judge (or clerk) shall issue a warrant for the arrest of the defendant except in the case of offenses for which a summons

is mandatory pursuant to KRS 431.410, and except that a summons may issue instead of a warrant if there are reasonable grounds to believe that the defendant will appear in response, or if the defendant is a corporation. If there are reasonable grounds to believe that a defendant duly summoned will fail to appear, a warrant of arrest shall issue without the necessity of an additional supporting affidavit or complaint. RCr. 2.04.

B

Bail - the process of releasing a defendant from jail or other governmental custody with conditions set to reasonably assure public safety and court appearance. Pretrial Justice Institute, Section on Info Stop—Glossary of Terms, *Bail*.

Bail Credit –the court shall permit the defendant a credit of one hundred dollars (\$100) per day as a payment toward the amount of the bail set for each day or portion of a day that the defendant remains in jail prior to trial, unless prohibited by statute. KRS 431.066

Bench Warrant – when a witness or a defendant fails to appear in court as required, the presiding judge may issue a warrant for his or her arrest without the need for a supporting affidavit or complaint.

Bond – A written promise to pay money or do some act if certain circumstances occur or a certain time elapses. Bond, Black’s Law Dictionary (10th ed. 2014).

C

Circuit Court Clerk - The circuit and district courts have elected circuit court clerks who hold office for six years. The circuit clerks have various duties which include transmitting transcripts for appeal, entering judgments and indictments upon the court minutes, and maintaining records files, dockets, and indexes. The clerks have the duty to sign all subpoenas, and summons or warrants on indictments or informations issued by the court. The clerks also have the authority to administer oaths. 9 Ky. Prac. Crim. Prac. & Proc. § 24:32 (5th ed.) & KRS 30A.080

Circuit Court - A court that has original jurisdiction in all cases not vested in some other court. It has appellate jurisdiction over District Court matters. KY Const §112. The Circuit Court has

concurrent jurisdiction to hold preliminary hearings on felony or capital offenses or offenses which may be punishable by death or imprisonment in the penitentiary. KRS 24A.110. Once a defendant is indicted on a felony charge, the Circuit Court has jurisdiction in felony cases and any misdemeanors joined with a felony indictment. [West v. Commonwealth, Ky., 887 S.W.2d 338 \(1994\)](#). The Circuit Court also has jurisdiction in civil proceedings where the amount in controversy is over \$5,000.

Civil - An action brought to enforce, redress, or protect a private or civil right; a noncriminal litigation. . Civil, Black's Law Dictionary (10th ed. 2014).

Concurrent Sentence - Two or more sentences of jail time to be served simultaneously. Concurrent sentence, Black's Law Dictionary (10th ed. 2014).

Consecutive Sentence - Two or more sentences of jail time to be served in sequence or back to back. Concurrent sentence, Black's Law Dictionary (10th ed. 2014).

Conviction - The judgment that a person is guilty of a crime. Conviction, Black's Law Dictionary (10th ed. 2014).

Court Cost – Fees that are assessed against a defendant upon conviction in a case. Court costs shall be mandatory unless the court finds that the defendant is a poor person as defined in KRS 453.190(2). KRS 24A.175 & KRS 23A.205.

Court of Appeals – A court that has appellate jurisdiction except for final decisions of the Worker's Compensation Board and writs of mandamus or prohibition against a circuit judge. Ky. Const. §111 & SCR 1.030.

Court Security Officer-an officer that attends sessions of the Court of Justice in the county which he is sworn. The duties of a court security officer are to keep order in the courts, provide security services to the courts, guard prisoners during court appearances, transport prisoners, serve warrants and process in both civil and criminal matters in the courtroom and arrest and take individuals into custody who are in or around the immediate area of the court facility. KRS 70.280

Criminal Summons – It is an official process issued by an officer of the court in lieu of a warrant. It shall name or describe the offenses charged to have been committed and the county in which they are alleged to have occurred, specify the name of the defendant, or, if the defendant's name is unknown, any name or description by which the defendant can be identified with reasonable certainty, and the name of the complaining party or parties. It shall summons the defendant to appear at a stated time and place before the court. RCr. 2.06

Criminal Violation - An offense, other than traffic infraction, for which a sentence to a fine only can be imposed. KRS 500.080

D

Defendant - A person sued in a civil proceeding or accused in a criminal proceeding. Defendant, Black's Law Dictionary (10th ed. 2014).

Dismissal - The attorney for the Commonwealth, with the permission of the court, may **dismiss** the indictment, information, complaint or uniform citation prior to the swearing of the jury or, in a non-jury case, prior to the swearing of the first witness. RCr 9.64

Dismissed with Prejudice- A case removed from the court's docket in such a way that the plaintiff is foreclosed from filing a suit again on the same claim or claims. . Dismissed With Prejudice, Black's Law Dictionary (10th ed. 2014).

Dismissed Without Prejudice - A dismissal that does not bar the plaintiff from refiling the lawsuit within the applicable limitations period. Dismissal Without Prejudice, Black's Law Dictionary (10th ed. 2014).

District Court – A court that has exclusive jurisdiction over misdemeanors and violations. The District Court has concurrent jurisdiction to hold preliminary hearings on felony or capital offenses or offenses which may be punishable by death or imprisonment in the penitentiary. KRS 24A.110. The District also has jurisdiction in all juvenile matters unless jurisdiction is vested by law in some other court. KRS 24A.130. The District Court also has original jurisdiction in probate matters, guardianship proceedings, and civil cases where the amount in controversy is under \$5,000, KRS 24A.120 & KRS 24A.020.

Docket - The clerk of each trial court shall keep a **docket** for each original action filed in that court. All papers filed with the clerk, process issued and returns made, appearances, orders, verdicts, and judgments shall be marked with the file number and shall be noted chronologically in the **docket** on the page or pages of the **docket** assigned to the action. CR 79.01

Docket Number - The file number of an action. Actions shall be assigned consecutive file numbers as prescribed in the Circuit Clerks Manual published by the Administrative Office of the Courts. The file number of each action shall be inscribed on the heading of the page of the **docket** on which the first entry of the action is made. CR 79.01

Expungement - The erasure of a record from a person's criminal history. Expungement, Black's Law Dictionary (10th ed. 2014).

F

Failure to Appear - If a defendant or witness fails to appear in court as required, the judge may issue a warrant for his or her arrest. RCr. 2.05

Family Court - A division of Circuit Court with general jurisdiction pursuant to Section 112 of the Kentucky Constitution. A family court has jurisdiction over divorces, child custody, visitation, maintenance and support, adoption, and termination of parental rights. The family court also has additional jurisdiction in the matters of domestic violence proceedings, dependency, neglect and abuse proceedings, and juvenile status offenses. KRS 23A.100.

Felony - means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed. KRS 500.080. “**Felonies** are classified, for the purpose of sentencing, into five categories: (1) Capital offenses; 2) **Class A felonies**; (3) **Class B felonies**; (4) **Class C felonies**; and (5) **Class D felonies**.” KRS 532.010.

Fine – A monetary criminal punishment or civil penalty. In misdemeanor cases, a fine can be assessed in addition to or instead of incarceration. Except for offenses defined outside of the Kentucky Penal Code, the maximum fine on a Class A misdemeanor is \$500 and \$250 for a Class B misdemeanor. KRS 534.040. Felony offenses, under the Kentucky Penal Code, shall be assessed a fine of at least \$1,000 but not more than \$10,000 or double the gain of the from the commission of the offense. KRS. 534.030.

Grand Jury - Group of 12 persons charged by the court to inquire into every offense for which any person has been held to answer and for which an indictment or information has not been filed, or other offenses which come to their attention or of which any of them has knowledge. The court shall further instruct the grand jurors concerning (a) their right to exclude the attorney for the Commonwealth while questioning witnesses, (b) their rights and duties to juvenile cases as provided in [KRS 640.010](#), and (c) any other matter affecting their rights and duties as grand jurors which the court believes will assist them in the conduct of their business. RCr. 5.02.

H

I

Indigent – KRS 31.100 defines a “needy person” or indigent person as:

- (a) A person eighteen (18) years of age or older or an emancipated minor under the age of eighteen (18) who, at the time his or her need is determined, is unable to provide for the payment of an attorney and all other necessary expenses of representation;
- (b) A minor, under the age of eighteen (18), who is a party defendant in an action of being an habitual runaway from his or her parent or person exercising control or supervision of the child brought under [KRS 630.020\(1\)](#) or of being beyond the control of parents brought under [KRS 630.020\(2\)](#), and at the time his or her need is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation;
- (c) An unemancipated minor, under the age of eighteen (18), who allegedly has committed an offense as described in [KRS 610.010\(1\)](#), or who allegedly is beyond the control of the school as described in [KRS 610.010\(2\)\(a\)](#), or who allegedly is an habitual truant from school as described in [KRS 610.010\(2\)\(b\)](#), or who allegedly is an habitual runaway as described in [KRS 610.010\(2\)\(c\)](#), whose custodial parent or guardian at the time the need of the minor is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation, and who cannot personally so provide; or
- (d) An unemancipated minor, under the age of eighteen (18), alleged to have committed an offense as described in [KRS 610.010\(1\)](#) or [\(2\)\(a\)](#), [\(b\)](#), or [\(c\)](#), whose custodial parent or guardian at the time the need of the minor is determined has interests adverse to the child relevant to the charged offenses and who is able to provide for the payment of an attorney and all other necessary expenses of representation, when such representation is not provided or is not consented to by the unemancipated minor;

Indictment – A written criminal charge(s) made by a grand jury. All indictments are signed by the foreperson and returned to the circuit judge in open court. Misdemeanor indictments that are not joined with a felony shall be heard in district court. The indictment shall contain a caption with the name of the court and the parties. The indictment shall contain a plain, concise and definite statement of the facts for the offense charged as well as the applicable statute(s) alleged to have been violated. RCr 5.20, RCr. 6.02 & RCr.6.10.

J

K

Kentucky Penal Code – covers KRS Chapters 500 to 534. The Kentucky Penal Code was effective on January 1, 1975. In order for an act to constitute a criminal offense it must be designated as a crime under this code or other Kentucky statute. The penal code abolished common law offenses. KRS 500.020.

L

M

Maximum Bail - When a person is charged with an offense punishable by fine only, the amount of the bail bond set shall not exceed the amount of the maximum penalty and costs. When a person has been charged with one (1) or more misdemeanors, the amount of the bail for all charges shall be encompassed by a single amount of bail that shall not exceed the amount of the fine and court costs for the one (1) highest misdemeanor charged. This subsection shall apply only to misdemeanor offenses not involving physical injury or sexual contact. The maximum bail shall not apply to a defendant who poses a flight risk or a danger to others. KRS 431.525

Misdemeanor - means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed. KRS 500.080

N O

Oath - means an affirmation or other legally authorized manner of attesting to the truth of a statement.

A written statement shall be treated as if made under oath when:

- (a) The statement was made on or pursuant to a form bearing notice, authorized by law, that false statements made therein are punishable; or
- (b) 1. The document recites that the statement was made under oath, and
 - 2. a. The declarant was aware of such recitation at the time he made the statement;
 - b. The declarant intended that the statement be represented as sworn; and
 - c. The statement was in fact so represented by its delivery or utterance with the signed jurat of an officer, authorized to administer oaths appended thereto. KRS 523.010

Offender - one who has been convicted of a crime. Offender, Black's Law Dictionary (10th ed. 2014).

P

Plaintiff - the person or party who files a suit in a court of law. Also known as a petitioner or the complainant. Plaintiff, Black's Law Dictionary (10th ed. 2014).

Perjury - making a material false statement under oath in an official proceeding or in a written instrument. KRS 523.020 & KRS 523.030.

Plea- An accused person's formal response of "guilty," "not guilty," or "no contest" to a criminal charge. . Plea, Black's Law Dictionary (10th ed. 2014).

Preliminary hearing – A defendant who has not been indicted has the right to a preliminary hearing when charged with a felony offense. The hearing must be held within 10 days of the defendant's initial appearance if in custody and within 20 days if the defendant is not in custody.

If the defendant waives his right to a preliminary hearing, or if it appears from the evidence to the judge that there is probable cause to believe that a felony offense has been committed, the judge shall hold the defendant to answer in circuit court. RCr. 3.07 & RCr. 3.13.

Probable Cause - A reasonable ground to suspect that a person has committed or is committing a crime or that a place contains specific items connected with a crime. Under the Fourth Amendment, probable cause, which amounts to more than a bare suspicion but less than evidence that would justify a conviction, must be shown before an arrest warrant or search warrant may be issued. Probable Cause, Black's Law Dictionary (10th ed. 2014).

Prosecution - One or more government attorneys who initiate and maintain a criminal action against an accused defendant. Prosecution, Black's Law Dictionary (10th ed. 2014).

Prosecutor - A legal officer elected to represent the state or federal government in criminal proceedings. Prosecutor, Black's Law Dictionary (10th ed. 2014). In Kentucky, there is a Commonwealth's attorney in each judicial circuit and a County Attorney in each county. The Commonwealth's attorney shall attend each Circuit Court held in his judicial circuit. He shall, except as provided in KRS 15.715 and KRS Chapter 131, have the duty to prosecute all violations whether by adults or by juveniles subject to the jurisdiction of the Circuit Court of the criminal and penal laws which are to be tried in the Circuit Court in his judicial circuit. In addition, he shall have the primary responsibility within his judicial circuit to present evidence to the grand jury concerning such violations. The county attorney shall attend the District Court in his county and prosecute all violations whether by adults or by juveniles subject to the jurisdiction of the regular or juvenile session of the District Court of criminal and penal laws, except as provided in KRS Chapter 131, within the jurisdiction of said District Court. KRS 15.725.

Pretrial Conference - At any time after the filing of the indictment or information the court on motion of any party or on its own motion may order counsel for all parties to appear before it for one or more conferences to consider such matters as will promote a fair and expeditious trial. At the conclusion of a conference the court shall prepare and file an order noting the matters agreed upon. This rule shall not be invoked in the case of a defendant who is not represented by counsel. RCr 8.03

Q

R

Release on Personal Recognizance- means release of a defendant on personal recognizance when, having acquired control over the defendant's person, the court permits the defendant to be at liberty during the pendency of the criminal action or proceeding upon the defendant's written promise to appear whenever his or her attendance before court may be required and to render

himself or herself amenable to the orders and processes of the court. RCr 4.00(f) **Recognizance** - A bond or obligation, made in court, by which a person promises to perform some act or observe some condition, such as to appear when called, to pay a debt, or to keep the peace. Recognizance, Black's Law Dictionary (10th ed. 2014).

Rules of Criminal Procedure - These rules govern procedure and practice in all criminal proceedings in the Court of Justice. To the extent that they are not inconsistent with these rules, the regulations, administrative procedures, and manuals published by the Administrative Office of the Courts upon authorization of the Supreme Court relating to internal policy and administration within the Court of Justice shall have the same effect as if incorporated in the rules. RCr 1.02

Respondent - the party against whom a motion or petition is filed. Respondent, Black's Law Dictionary (10th ed. 2014).

Restitution - When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or where the victim incurred expenses in relocating for the purpose of the victim's safety or the safety of a member of the victim's household, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Health and Family Services, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars (\$100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. KRS 533.030

Subpoena - A writ or order commanding a person to appear before a court or other tribunal, subject to a penalty for failing to comply. Subpoena, Black's Law Dictionary (10th ed. 2014).

Supreme Court – The Supreme Court consists of the Chief Justice and six associate Justices. The Supreme Court shall have appellate jurisdiction only, except it shall have the power to issue all writs necessary in aid of its appellate jurisdiction, or the complete determination of any cause, or as may be required to exercise control of the Court of Justice. Appeals from a judgment of the Circuit Court imposing a sentence of death or life imprisonment or imprisonment for twenty years or more shall be taken directly to the Supreme Court. KY Const §110.

Surety – means a person other than the defendant who executes a bail bond and assumes the obligations therein. KRS 4.00(g).

Show Cause Hearing – A hearing in which a party is directed to appear in court and explain why the party took (or failed to take) some action or why the court should or should not impose some sanction or grant some relief. Show Cause, Black’s Law Dictionary (10th ed. 2014).

Sustain - to support or maintain. Sustain, Black’s Law Dictionary (10th ed. 2014).

T

U

Unsecured Bond - means a **bond** for which the defendant is fully liable upon failure to appear in court when ordered to do so or upon breach of a material condition of release, but which is not secured by any deposit of or lien upon property. RCr 4.00(h).

The Pretrial Process

